



TOWNSHIP OF WEST ORANGE

66 MAIN STREET, WEST ORANGE, N.J. 07052

Department of Planning and Development

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TO: Zoning Board Members

FROM: Paul Grygiel, AICP, PP, Planning Director

DATE: June 17, 2022 – revised November 4, 2022

RE: **ZB-21-21/Daughters of Israel**
Block: 171; Lot: 12; Zone: R-2
1155 Pleasant Valley Way
Seeking “c” and “d” variances for development of a “continuum of care facility”

The applicant has made modifications to the proposed plans. This memorandum supplements my updated review memorandum dated June 17, 2022. New information is denoted in **bold**, deletions are shown in ~~strikethrough~~.

INTRODUCTION

The applicant is proposing to redevelop a property occupied by a skilled nursing facility by adding independent living and assisted living components to the facility in newly constructed buildings, and modifying the existing site layout. “d(1)” variances are required for the proposed uses and for multiple principal uses. A number of “c” or bulk variances are also required.

LAND USE/CIRCULATION

The subject property consists of one tax lot that is 784,099 square feet (18.0 acres) in area. The site has 648 feet of frontage on Pleasant Valley Way and is irregularly shaped. The subject property is developed with a nursing home that is licensed for up to 303 beds which has been in operation since 1962. The existing buildings are located generally in the eastern portion of the



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property with parking lots located to the west and south. Driveways are located on all sides of the existing buildings. Site photographs taken on November 15, 2021 are included at the end of this memorandum.

The property is located on the west side of Pleasant Valley Way across to the south of its intersection with Parson Drive. A mix of land uses is located in the surrounding area, including single and multifamily residential, institutional, governmental and open space. Single-family residences are located to the north and northwest, Kessler Institute for Rehabilitation is located to the south followed by the New Jersey National Guard Armory and a New Jersey Department of Transportation maintenance yard, Essex County's Francis A. Byrne Golf Course is located to the east across Pleasant Valley Way and a nursing home and multifamily residential developments are located to the west along Summit Street.

There is a sidewalk along the site's frontage. It is generally in good condition. Pleasant Valley Way is a County Road (Route 636) with two-way traffic that is three lanes wide (one travel lane in each direction and a center turning lane) in front of the subject property. The closest transit service to the subject property is provided at a bus stop for New Jersey Transit's 71 bus, on the east side of Pleasant Valley Way just north of Mount Pleasant Avenue. Another bus stop for service in the opposite direction is on the north side of Mount Pleasant Avenue approximately 800 feet to the west of Pleasant Valley Way.

SUBMISSIONS

<u>ITEM</u>	<u>SIGNED BY</u>	<u>DATE/REVISION</u>
Boundary and Topographic Survey	Michael P. Ferschman, P.L.S.	4/22/20
Site Plan (22 sheets)	J. Michael Petry, P.E., P.P., R.A.	5/20/22
Architectural and Landscape Plans (12 sheets)	David S. Fowles, A.I.A.	5/20/22
Planner's Report	Francis J. Banisch, P.P./A.I.C.P.	5/31/22
Environmental Impact Statement	Not signed – Petry Engineering, LLC	5/18/22
Traffic Impact Study	Craig W. Peregoy, P.E. and Connor Hughes, P.E.	5/6/22
Stormwater Management Report	J. Michael Petry, P.E.	5/20/22
Tree Removal Plan (2 sheets)	J. Michael Petry, P.E., P.P., R.A.	5/20/22
Letter to Board Chairman and Members re: Legal Issues	Howard D. Geneslaw, Esq.	9/22/22
Civil Engineering Exhibits (12 sheets)	J. Michael Petry, P.E., P.P., R.A.	8/5/22
Architectural Exhibits (25 sheets)	KDA Architects	Undated



VARIANCES REQUIRED

“d(1)” Variances			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Permitted Use	Various residential and other uses	Nursing home	Continuum of care facility including independent living, assisted living and skilled nursing
25-8.12 More than one principal use upon any single lot	Only permitted in the B-1, B-2, P-C, O-R and I Districts	One principal use	Three principal uses
“d(6)” Variance			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Maximum building height	35 ft.	Not provided	57.50 ft.
“c” Variances			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Maximum number of stories	2 ½ stories	2 stories	5 stories
25-7.1 Maximum building coverage ¹	20%	29.64% (16.47% ²)	28.18% (15.72%)
25-7.1 Maximum lot coverage ¹	30%	69.35% (38.53%)	67.42% (37.46%)
25-8.4 Maximum retaining wall height	Four feet	Four feet	10 feet
25-12.1 o. Maximum length of continuous parking row without landscaped island	20 spaces	>20 spaces	22 spaces
25-12.2 b.1. Minimum number of parking spaces ³	479	236	429, including EV credits (381 actual spaces)
25-12.3 a.2. Minimum number of loading spaces	13	2	1

¹ Calculated using “effective lot area” per Section 25-28.8d

² Coverage figures in parentheses calculated using actual lot area

³ See below for discussion of applicable parking and loading requirements



25-12.4 a.6. Parking of vehicle with dual rear wheels	Not permitted	Parking of existing shuttle bus	Parking of the same or similar shuttle bus
25-12.4 b.3. Parking of commercial vehicles	In garage, or if too large, outdoors with commercial markings removed; single axle; maximum 20' long, 7' high and 6,000 lb. gross vehicle weight	Parking of existing shuttle bus and several delivery vans outdoors, with commercial markings, some having a double axle and/or exceeding size limit	Parking of same or similar shuttle bus and several delivery vans outdoors, with commercial markings, some having a double axle and/or exceeding size limit
25-14.1 c. Maximum light pole height	18 ft.	>18 ft.	25 ft.
25-15.3 Sign illumination	Illumination not expressly permitted in R-2 district	Externally illuminated with ground-mounted light fixture	Freestanding signs: Externally illuminated with ground-mounted light fixture Building signs: Reverse lit channel letters
25-15.3 b. Number of signs per lot	1	1 monument sign	5 facade signs 1 monument sign (existing) 1 freestanding identification sign (health center) 4 freestanding directional signs
25-15.3 b. Maximum sign area	1 sq. ft. for a nameplate, 2 sq. ft. for a professional office	56 sq. ft. monument sign (variance granted)	Ranges from 8.75 sq. ft. to 56 sq. ft.
25-15.4 a. Maximum number of signs per linear frontage	8 (4 signs/250 ft.; 648 ft. of frontage)	1	11



25-28.8b Maximum disturbed area	20 to 24.99%: 20%, 25% or greater: 0%	Not provided	20 to 24.99%: 25%, 25% or greater: 16%
25-28.8c Disturbance of slopes 25% or more	Prohibited	Not provided	Proposed

PROPOSED DEVELOPMENT

The applicant is proposing to redevelop a property occupied by a skilled nursing facility that currently has 303 beds by adding independent living and assisted living/memory care components to the facility creating what is referred to as a continuing care retirement community, or CCRC. The applicant has indicated the proposed mix of uses will allow for residents of the development to “age in place,” a concept that is discussed in the Township’s 2019 Master Plan Update.

A number of changes are proposed to the existing site conditions. A new building will be constructed, which will be four to five stories in height, including parking within the building on much of the first floor level. The proposed development will include 182 independent living units, 64 assisted living/memory care beds and 80 skilled nursing beds and accessory facilities. These include a community center, fitness center, dining areas, a pub and a small store. Health and wellness services will be provided. A multi-phase plan is proposed, as described in detail in the application materials. Three interior courtyards are proposed as is at least one outdoor terrace area.

The site has two existing two-way driveways on Pleasant Valley Way, which are proposed to be maintained. The internal site driveways and parking areas are proposed to be modified, **as is the southern site driveway: left and right turn exit lanes will be provided and a center island added between the entrance and exit lanes.** Sidewalks are proposed around the perimeter of the building, which will connect to a new sidewalk providing access to the sidewalk along Pleasant Valley Way. Three drop off areas are proposed at different locations of the building, of which two will have a porte cochere to provide a covered area for vehicles.

A total of 381 parking spaces are proposed in multiple locations. These include the spaces within the building (115 spaces), parking lots to the southwest and northeast of the building and perpendicular spaces along the internal site driveway to the northwest of the building (total of 266 surface level spaces, including 38 electric vehicle charging spaces. Trash and loading areas are provided adjacent to the northwest portion of the building.

In terms of signage, the existing 56-square foot monument sign adjacent to the main site driveway will remain, but according to the architectural plans will be renovated to be compatible



with the proposed building materials and design and its text is to be determined. Five 8.75-square foot ground signs are proposed throughout the interior of the site: one identification sign for the health center and four directional signs. Five façade signs ranging in area from 32 to 48 square feet are proposed on the building.

A number of sustainable design features are proposed, including green and solar roofs (**22% and 13% of roof surface, respectively**), water efficient landscaping, construction waste management and low emitting materials.

The applicant is also requesting approval to construct the project in four phases, with a statutory protection period of 10 years.

DISCUSSION/RECOMMENDATIONS

Variance Proofs

The subject property is located in the R-2 Residential zone district. As noted, use variances are required for the proposed mix of uses and to permit more than one principal use on a single lot.

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(1) enables a board of adjustment to grant a variance to permit “a use or principal structure in a district restricted against such use or principal structure.” An applicant for a “d” variance must comply with the requirements of the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d. A “d” variance may be granted only “in particular cases for special reasons.” The applicant’s planner indicates that this criterion is satisfied, as independent living senior apartments, nursing homes and assisted living residences are considered “inherently beneficial uses.” Such uses must satisfy a four-part test enumerated in the Sica v. Board of Adjustment of Tp. of Wall court case, as noted in the planning report. The applicant’s planner also opines this criterion is also satisfied due to hardship in using the property for a permitted use and that the subject property is particularly suitable for the proposed use.

The application also requires a “d(6)” variance for height in excess of 10 percent and 10 feet of the permitted height. Pursuant to the Grasso v. Spring Lake Heights court case, the applicant must provide special reasons to show that the site will accommodate the problems associated with a height greater than permitted by the ordinance.

In addition, the MLUL at N.J.S.A 40:55D-70c permits a board of adjustment to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d” variance. A “c(1)” variance is for cases of hardship due to factors such as shape or topography, or due to “an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted



where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just the applicant or property owner.

For all of the above variances, the applicant must also address the “negative criteria,” and affirmatively demonstrate that each variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality.

Site Plan and Other Issues

At a virtual meeting of the Township of West Orange Site Plan Review Advisory Board (SPRAB) held on December 7, 2021, the SPRAB reviewed the above application with the applicant and its attorney, engineer, architect and other representatives.

The site plan and design issues were discussed at this meeting, including phasing, sustainable design, tree removal and replacement, stormwater management and vehicular circulation, have been addressed in the revised plans and supporting documentation, as summarized in a letter from the applicant’s engineer dated May 26, 2022. One **previously** outstanding item ~~is was~~ the provision of one or more renderings or simulations comparing the view of the proposed development from the adjacent residential neighborhood with existing conditions. **These have been prepared by the applicant’s architect and provided to the Board, its professionals and the public.** ~~The applicant’s engineer indicated renderings will be provided by the architect. These should be provided for review by the Board and its professionals as soon as possible.~~

Based on review of the steep slope disturbance maps included in the Environmental Impact Statement, variances are required for the amount of disturbance of steep slopes of 20 to 24.99% and 25% or greater. These requests should be listed on the site plan and in the list of required variances.

As noted in the application materials, per State requirements, an assisted living facility must reserve ten percent of its total bed compliment for use by Medicaid-eligible persons. These Medicaid-reserved beds qualify as affordable units per the applicable regulations, meaning the Township would receive credits for ten affordable units if this development is approved and constructed. As also noted, other affordable housing units will likely be provided as part of the independent living and skilled nursing components, but will depend on whether the applicant “opts to formally license and operate the facility as a CCRC once the independent living units are developed,” per the applicant’s planning report. In that case, the facility would be subject to a nonresidential development fee per State law. The applicant should provide testimony regarding these options and how they would relate to the Township’s affordable housing compliance.



The site plan indicates two outdoor terrace areas are proposed on the east side of the building, while only one is labeled on the architectural plans. The applicant should confirm which is correct.

The applicant should indicate whether any indoor and/or outdoor bicycle storage facilities are proposed.





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