



WILLIAM C. SULLIVAN, JR. | Partner
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Phone: 201-896-7215

September 12, 2024

BY FEDERAL EXPRESS AND EMAIL

Diana Chandler-Zimmerman, Secretary
Zoning Board of Adjustment
Township of West Orange
66 Main Street
West Orange, New Jersey 07052

**Re: Zinnia Health, LLC
Use Variance Application/Appeal
33 Mt. Pleasant Avenue
Block 88, Lot 26
Our File No.: 16018.1000**

Dear Ms. Chandler-Zimmerman:

Enclosed please find two documents in connection with this application. First, I am providing a memo summarizing the prior applications and approvals related to the subject property, along with copies of the Resolutions and other relevant documents. Second, I am providing the tax clearance provided to me by the Tax Collector. I am providing these documents to you in paper form and also electronically.

I believe that we have now provided all the information required for the application to be deemed complete. Please advise if you have deemed the application complete. We request that we be placed on the earliest possible agenda.

Thank you for your consideration.

Very truly yours,

/s/ William C. Sullivan, Jr.

WILLIAM C. SULLIVAN, JR.
For the Firm

Enclosures

cc: Scott Burman
John McDonough



TOWNSHIP OF WEST ORANGE

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

OFFICE OF THE TAX COLLECTOR

SUSAN McCARTNEY

Mayor

KATHY LONGO

Tax Collector

Tel: (973) 325-4075

Fax: (973) 736-9182

Email: taxcollector@westorange.org

VERIFICATION OF TAXES & SEWER CHARGES PAID

DATE: 9/11/24

BLOCK: 88

LOT: 26

NAME: LS SB Canterbury, LLC

ADDRESS: 33 Mt Pleasant Avenue

PROPERTY IS TAX EXEMPT

2024 SEWER PAID IN FULL

TOWNSHIP OF WEST ORANGE

TAX COLLECTOR

66 MAIN STREET

WEST ORANGE, NJ 07052

PHONE (973) 325-4075

FAX (973) 736-9182



AN EQUAL OPPORTUNITY EMPLOYER

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LAW OFFICES
THREE GATEWAY CENTER
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TELEX
139405

TELEPHONES
(201) 622-7711
(212) 943-6530

May 4, 1995

Mr. Aaron Frank, Chairman
West Orange Zoning Board of
Adjustment
66 Main Street
West Orange, New Jersey 07052

Re: The House of the Holy Comforter
33 Mt. Pleasant Avenue
West Orange, New Jersey
Block 88, Lot 26
REQUEST FOR INTERPRETATION

MAY 4 4 12 PM '95

W.O. PLANNING AND
DEVELOPMENT DEPT.

Dear Chairman Frank:

I represent and am a trustee of The House of the Holy Comforter ("HHC"), a 15-bed licensed New Jersey residential health care facility located in the OB2 zone. HHC would like to upgrade and expand its existing facility to accommodate a total of 39 residents.

On May 1, 1995, I met with Susan Borg, Planning Director, and Kim Ragoni, Zoning Officer, to discuss HHC's conceptual site plan and was advised to seek an interpretation before the Zoning Board on whether HHC's proposed use is permitted. The OB2 zone permits, among other things, "Hospital, Sanitarium and Nursing Home" uses. HHC, as a licensed New Jersey health care facility, falls within the continuum of these uses and, therefore, should be considered a permitted use.

HHC was incorporated in 1920 to nurse, care for, shelter and provide a home for needy persons and, the same year, inherited the victorian house at 33 Mt. Pleasant Avenue. HHC gradually evolved into a home for elderly women and, in 1957, added a concrete block wing to the rear of the house which can accommodate 15 residents. In the late 1950's, the New Jersey Department of Health licensed HHC as a boarding home for sheltered care and, in the 1980's, licensed HHC as a residential health care facility.

Mr. Aaron Frank
House of the Holy Comforter
May 4, 1995
Page 2.

Although the Zoning Ordinance does not define nursing home or residential health care facility, the New Jersey Department of Health, pursuant to the Health Care Facilities Planning Act (1971), N.J.S.A. 26:2H-1, et seq., defines, regulates and licenses both. A residential health care facility, like HHC, provides shelter, service and 24-hour supervisory care for its residents, N.J.A.C. 8:43-1.2. A nursing home is a residential health care facility which provides medical supervision and 24-hour continuous skilled nursing care to its residents, N.J.A.C. 8:33H-1.2.

In Urban Farms, Inc. v. Franklin Lakes, 179 N.J. Super. 203, 216 (App. Div.), certif.denied, 87 N.J. 428 (1981), the Court, when faced with a zoning ordinance which conditionally permitted hospitals but excluded nursing homes, said:

Nursing homes and hospitals are uses which in our view are so similar both physically and functionally that their disparate classification for zoning purposes could be justified only on compelling public policy grounds. We perceive none. We are aware that this court reached a different conclusion in Bellings v. Denville Tp., 96 N.J. Super. 351 (App.Div. 1967). But we point out that Bellings was decided prior to the virtual revolution in health care facility control and regulation effected by subsequent federal and state legislation and implementing administrative rules. It is made abundantly clear by this complex of legislation that residential health care facilities of whatever nature constitute an integrated, comprehensive system of health care delivery service subject to unified and integrated state policy, planning and control. See, e.g., N.J.S.A.26:2H-1, reposing in the State Department of Health "the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services...and all public and private institutions, which State, County, municipal, incorporated or not incorporated, serving

Mr. Aaron Frank
House of the Holy Comforter
May 4, 1995
Page 3.

principally as residential health care facilities, nursing or maternity homes or as facilities for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition..." The State and Federal Governments having thus integrated nursing homes and hospitals within a single system for purposes of control and regulation and subjecting both to the same certificate of need prerequisites, we are satisfied that they cannot be disparately treated for zoning purposes--at least not on the basis of any legitimate public policy which would justify the exclusion of one and inclusion of the other within the same zone.

For the same reason, licensed residential health care facilities, like HHC, and nursing homes should be classified for zoning purposes as identical uses.¹

Since the Zoning Ordinance permits hospitals and nursing homes in the OB2 zone, HHC requests that this Board interpret the ordinance as permitting HHC's current and proposed use because it is within the continuum, classification and definition of these permitted uses.

Very truly yours,



WAC:gmm

William A. Carpenter, Jr.

¹In 1993, the Legislature amended N.J.S.A. 54:4-3.6 "Exemption of property of nonprofit organizations," which, among other things, exempted buildings used for hospital purposes by stating that the term hospital purposes "includes health care facilities for the elderly, such as nursing homes; residential health care facilities;***."



NEW JERSEY STATE DEPARTMENT OF HEALTH
DIVISION OF HEALTH FACILITIES EVALUATION

LICENSE

NO. 8953

The following, pursuant to N.J.S.A. 26:2H-1 Et. Seq., is hereby licensed to operate a
RESIDENTIAL HEALTH CARE FACILITY (HOME FOR AGED)

Bed Complement: 15

[HOUSE OF THE HOLY COMFORTER
33 Mount Pleasant Avenue
West Orange, NJ 07052

Effective 5/31/94
to 5/31/95

[] STATE COMMISSIONER OF HEALTH

LCS-10
APR. 86

TO BE DISPLAYED AT THE FACILITY

H-4290



NEW JERSEY STATE DEPARTMENT OF HEALTH
DIVISION OF HEALTH FACILITIES EVALUATION
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Township Of West Orange

66 MAIN STREET, WEST ORANGE, NEW JERSEY 07052

DEPARTMENT OF PLANNING AND DEVELOPMENT

SAMUEL A. SPINA

Mayor

SUSAN BORG A.I.A.

Planning Director

TEL: (201)325-4110

FAX: (201)325-6359

TO: Zoning Board of Adjustment Members

FROM: Director Susan Borg, P.P., A.I.A. *SB*

DATE: May 10, 1995

RE: ZB-95-16/The House of the Holy Comforter
33 Mt. Pleasant Avenue
Block: 88; Lot: 26; Zone: OB-2

DISCUSSION

The applicant has applied for an interpretation of the West Orange Zoning Ordinance as to whether a New Jersey licensed residential health care facility is a permitted use in the OB-2 zone. Hospitals, Sanitariums and Nursing Homes are permitted uses in the OB-2 zone, however the term nursing home is not defined in the Ordinance.

The applicant has submitted a brief which I believe supports the position that a licensed residential health care facility is a permitted use under the term nursing home. This applies to "extended care" facilities and "congregate care" facilities licensed by the State of New Jersey. However, to be certain this applies, the applicant should define "residential health care," "extended care," "congregate care," and "nursing home."

Zoning and land use is a dynamic field which continually has new terms and types of businesses. When the Zoning Ordinance does not include new terms, the intent of the ordinance must be reviewed. I think the intent of the Zoning Ordinance is to permit hospitals, nursing homes and sanatariums includes uses similar to these being proposed, such as licensed residential health care, extended care and congregate care.

However, I would like these terms defined in the ordinance and also some conditions added which consider lot size, buffers, etc. for large institutional buildings such as churches, schools and nursing homes.

SB:cea.

cc: William Carpenter, Esq.

BOARD OF ADJUSTMENT
OF
THE TOWNSHIP OF WEST ORANGE
RESOLUTION
ZB-95-16

WHEREAS, The House Of The Holy Comforter, ("The Applicant") maintaining an office at 33 Mt. Pleasant Avenue, West Orange, New Jersey applied to the West Orange Zoning Board of Adjustment ("The Board") to request an interpretation to determine if the permitted uses of hospitals, nursing homes, and sanitariums include a licensed residential health care facility, which is what Applicant conducts at 33 Mt. Pleasant Avenue, West Orange, New Jersey same being in a OB-2 Zone, being Lot 26 in Block 88, and

WHEREAS, the Applicant presented proof that adequate notice of the hearing on said application was published in The West Orange Chronicle, one of the official newspapers of the Board; and

WHEREAS, the Applicant submitted proof of service of notice of the hearing upon all property owners within 200 feet of the property; and

WHEREAS, the application was heard at a public meeting of the Board on May 18, 1995; and

WHEREAS, the Applicant made their presentation through William A. Carpenter, Jr., Esq. as their attorney, who is also a Trustee of Applicant and submitted proof Applicant is a licensed residential health care facility, and explained the operation; and

WHEREAS, Patrick E. Brady, Health Care Consultant, testified; and

WHEREAS, no one else appeared at the meeting; and

WHEREAS, all the facts and data contained in the submitted application and all the facts and testimony adduced at the public hearing on said application are incorporated herein as Findings of Fact of this Board as if set forth at length herein; and

THE BOARD HAVING MADE THE FOLLOWING SPECIFIC FINDINGS OF FACT AND CONCLUSIONS:

A. The Applicant is the owner of the Property located at 33 Mt. Pleasant Avenue, West Orange, New Jersey, known as The House Of The Holy Comforter.

B. The Property is located in the OB-2 Zone of the Township of West Orange, and is designated as Lot 26 in Block 88 on the official Tax Maps of the Township of West Orange.

C. Residents of the facility do not drive and do not have freedom to come and go but are essentially confined.

D. There are no in-room cooking facilities.

E. Residents must eat in a central dining room location.

F. The facility provides nursing and medical care, and a licensed pharmacist reviews the charts of each resident.

G. Residents are not able to fully care for themselves and need varying degrees of assistance.

H. As a licensed residential health care facility, the facility is regulated by the State Department of Health.

I. The Applicant seeks an interpretation declaring that its use as a licensed residential health care facility is a permitted use in that such use is so similar to permitted uses such as nursing homes, hospitals, and sanitariums.

J. This interpretation is limited to the facts of this application.

A motion to grant the Applicant's request to declare their use as a licensed residential health care facility as a permitted use in the OB-2 Zone was made by William Sullivan, seconded by Steven Werner and voted upon as follows:

AYES

Abeles
Dorey
Sullivan
Werner

NAYS

DeSantis
Frank
Williamson

ABSTENTIONS

None

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Adjustment of the Township of West Orange, based upon the Findings of Fact and Conclusions aforesaid, and upon the laws established in the State of new Jersey, hereby declares that the Applicant's use as a licensed residential health care facility is a permitted use in the OB-2 Zone at their present location at 33 Mt. Pleasant Avenue, West Orange, New Jersey.

MOVED BY: Sullivan

SECONDED BY: Werner

THOSE IN FAVOR: 3

THOSE OPPOSED: 0

ABSTENTIONS: NONE

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting of June 15, 1995 and that said Resolution memorializes the action of the Zoning Board taken at its meeting held on May 18, 1995, granting said application by a vote of 4 in favor and 3 against.

A handwritten signature in cursive script, reading "Catherine Adsitt", written over a horizontal line.

CATHERINE ADSITT, Board Secretary



Township Of West Orange

66 MAIN STREET, WEST ORANGE, NEW JERSEY 07052

DEPARTMENT OF PLANNING AND DEVELOPMENT

SAMUEL A. SPINA
Mayor

SUSAN BORG A.L.A.
Planning Director

TEL: (201) 325-4110
FAX: (201) 325-6359

April 9, 1996

William Carpenter, Esq.
Gateway Three
100 Mulberry Street
Newark, NJ 07102

RE: PB-95-16 / House of the Holy Comforter
33 Mt. Pleasant Avenue
Amended Site Plan

Dear Mr. Carpenter:

Enclosed please find a copy of the resolution that was adopted at the April 1, 1996 West Orange Planning Board meeting. Signed site plans will be required prior to the issuance of any building permits. Please submit eight (8) sets of revised plans for signature.

If you have any questions, please let me know.

Yours truly,

Migdalia Wagner
Planning Board Secretary

Enclosure

cc: Max Manshel, Esq.
Director Leonard Lepore, Municipal Engineer
Thomas Biondi, Construction Official
Kim Ragoni, Zoning Officer

**ORIGINAL
FILE COPY**

**Signed Site Plans Required
Prior to the Issuance of
Building Permits**

PB-95-16

**PLANNING BOARD RESOLUTION GRANTING
PRELIMINARY AND FINAL SITE PLAN
APPROVAL AND PARKING VARIANCE ON
APPLICATION BY THE HOUSE OF THE
HOLY COMFORTER LOCATED AT
33 MT. PLEASANT AVENUE, BEING
BLOCK 88, LOT 26, ZONE OB-2**

WHEREAS, the Planning Board of the Township of West Orange, at its regular meeting held on March 6, 1996, considered the application for preliminary and final site plan approval and a parking variance, at 33 Mt. Pleasant Avenue, being Block 88, Lot 26, Zone OB-2, West Orange, which was submitted by The House of the Holy Comforter ("Applicant") through its attorney, William A. Carpenter, Jr., Esq.; and

WHEREAS, the Planning Board considered the testimony and the presentation of the Applicant for conceptual site plan review on July 12, 1995; and

WHEREAS, the Planning Board considered the presentation of William A. Carpenter, Jr., Esq., attorney for the Applicant; the testimony of Leon C. Hall, P.E., Applicant's engineer; Edward Z. Wronsky, Applicant's architect; and Anthony Russo, Applicant's treasurer; and

WHEREAS, statutory notice and publication of the meeting having been provided and Exhibit A-1 placed into evidence; and

WHEREAS, the general public having been given an opportunity to be heard and Clinton Hoch, President of the Committee of Managers of the Llewellyn Park Proprietors Association; Alfred J. Luthy, 18 Wildwood Avenue; and Sharon Boyantowski-Cardiello, 43-45 Mt. Pleasant Avenue each spoke in favor of the Applicant; and the Planning Board having made the following findings of fact:

1. The Applicant is a New Jersey non-profit corporation and is continuing an existing use on the premises as a licensed residential health care facility (home for the aged), which the Board of Adjustment determined on May 18, 1995 to be a permitted use in the OB-2 Zone;

2. It has been demonstrated that the 26 parking spaces provided on the plans submitted by the Applicant more than adequately address the needs required on the site; the requested parking variance will not substantially impair the intent and purpose of the Master Plan and the Zoning Ordinance and its approval will not involve any substantial detriment to the public good;

3. Since this site borders a residential zone and is itself residential in character, there is no need for exterior lighting to exceed that which is required for residential zones and, therefore, the OB-2 Zone lighting requirement is waived;

4. The Applicant has obtained the approval (dated 12/18/95) and permit (filed 1/11/96) from the Department of Environmental Protection for a stream encroachment and surface

outfill structure for storm water drainage in its rear yard and is seeking the approval of the Essex County Planning Board and Township Engineer to construct an underground storm water detention basin connected to the County storm water system as an alternative and, if approved, the Applicant will preserve the existing rear lot that is undisturbed by the building addition as a lawn and reserve thereon 15 spaces for future parking.

5. This development will not have a harmful effect on the environment and thus the requirement for an Environmental Impact Study is waived.

6. The development will not measurably increase traffic generated from the site and the traffic study requirement is waived.

NOW, THEREFORE, BE IT RESOLVED that the requirements for a Traffic Study, an Environmental Impact Study, and the OB-2 Zone lighting requirements be and they hereby are waived with respect to this application; and

BE IT FURTHER RESOLVED that the application for variance from the requirements of the parking regulations whereby 50 are required and 26 are proposed, be and it hereby is granted and the Applicant is also required to provide 15 spaces for reserved future parking if the Essex County Planning Board and the Township Engineer approve the Applicant's underground storm water detention basin design; and

BE IT FURTHER RESOLVED that the site plan dated August 16, 1995, revised November 28, 1995, for property located

at 33 Mt. Pleasant Avenue, being Block 88, Lot 29, Zone OB-2, West Orange, be and it hereby is approved, subject to the following conditions:

1. The Applicant shall submit landscape plans to the Township Planning Director which are subject to the recommendation of the Environmental Commission and approval of the Township Planner.

2. The Applicant shall install exterior lighting on the parking lot and driveway which does not exceed the requirements for residential zones and meets with the approval of the Township Engineer.

3. The Applicant shall obtain the approval of the Essex County Planning Board.

4. The Applicant shall pay all applicable sewer fees.

The foregoing is a true copy of the RESOLUTION adopted by the Planning Board of the Township of West Orange.

DATED: ~~March 27, 1996~~ (msw)
April 1, 1996


MIGDALIA WAGNER

PB-99-05

THE HOUSE OF THE HOLY COMFORTER/CANTURBURY VILLAGE

RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE

For an amendment to approved site plan to permit addition of permanent free standing sign.

WHEREAS, the Planning Board of the Township of West Orange, at its regular meeting held on August 4, 1999, considered the application for an amendment to the approved site plan, to permit the addition of a permanent free standing sign at 33 Mt. Pleasant Avenue, being Block 88, Lot 26, Zone 26, Zone OB-2, West Orange, which was submitted by The House of Holy Comforter/Canterbury Village ("Applicant") through its attorney, William A. Carpenter, Jr., Esq.; and

WHEREAS, the Planning Board by Resolution PB-95-16 dated April 1, 1996 granted the applicant Preliminary and Final Site Plan approval; and

WHEREAS, the Planning Board considered the presentation of William W. Carpenter, Jr., Esq., attorney for the applicant; and

WHEREAS, statutory notice and publication of the meeting having been approved and Exhibits A-1 (photographs of current sign) placed in evidence; and

WHEREAS, the general public having been given an opportunity to be heard and no one appeared in support of or against the application; and the Planning Board having made the following findings of fact:

1. The applicant is a New Jersey non-profit corporation and is continuing an existing use on the premises as a licensed

residential health care facility (home for the aged), which the Board of Adjustment determined on May 18, 1995 to be a permitted use in the OB-2 Zone;

2. The applicant currently displays a temporary free standing sign in its front yard which is 17'2" from the curb, 6'2" from the walkway, 3' above the ground, 3'10" wide and 3'2" tall;

3. The proposed permanent free standing sign is to be located in the same place as the current temporary sign but will be 1' lower, 4" narrower and 4" taller;

4. The proposed permanent sign will not block the sight of drivers coming in or out of the applicant's driveway;

5. ~~The setback requirements of Section 25-15.4C cannot be~~ met due to the pre-existing non-conforming location of the applicant's building, however, the requested variance will not substantially impair the intent and purpose of the Master Plan and the zoning ordinance and its approval will not involve a substantial detriment to the public good;

6. The permanent sign is to be 2' off the ground, 3'6" wide and 3'6" tall with a curved top, blue lettering of the Canterbury Village name, the inscription "33 Mt. Pleasant Avenue", and a logo of a bird.

NOW, THEREFORE, BE IT RESOLVED that the application for variance from the requirements of Section 25-15.4c for 20' setback and minimum height of 8' is granted; and

BE IT FURTHER RESOLVED that the amendment to the approved site plan (sign installation plan) dated July 19, 1999, as revised and issued July 24, 1999 for a permanent free standing sign on property

located at 33 Mt. Pleasant Avenue, being Block 88, Lot 29, Zone OB-2, West Orange, be and it hereby is approved in accordance with the drawing submitted and subject to the following conditions:

1. The sign posts shall be cedar;
2. The sign shall be made wood; and
3. All finding of fact and conclusion of law set forth are deemed conditions that are binding upon the applicant.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.



CARLA GUERRIERO, Secretary of the
Planning Board of the Township
of West Orange

Dated: 9-2-99

PB-00-21T
PLANNING BOARD RESOLUTION APPROVING
THE RECOMMENDATION OF THE TECHNICAL ADVISORY
COMMITTEE FOR THE SITE PLAN APPLICATION OF THE
HOUSE OF THE HOLY COMFORTER LOCATED AT
33 MOUNT PLEASANT AVENUE, BEING BLOCK 88, LOT 26,
ZONE OB-2

WHEREAS, the Planning Board of the Township of West Orange, at its regular meeting held on December 6, 2000, considered the application for site plan approval in the OB-2 zone and for approval of the recommendation of the Technical Advisory Committee, which application was submitted by the owner The House of the Holy Comforter; and

NOW, THEREFORE, BE IT RESOLVED that the recommendation of the Technical Advisory Committee be and hereby is accepted and the site plan submitted by the House of the Holy Comforter to add interior sprinklers and firewalls to the original house at 33 Mount Pleasant Avenue, being Block 88, Lot 26, Zone OB-2, in the Township of West Orange, be and hereby is approved subject to the following condition:

The applicant shall replace the dead connifer trees surrounding the parking lot with connifer and holly trees in the Spring of 2001.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Elizabeth Vione

Secretary

Dated: December 6, 2000

NEW JERSEY DEPARTMENT OF HEALTH AND SENIOR SERVICES
DIVISION OF HEALTH FACILITIES EVALUATION AND LICENSING

Present, pursuant to N.J.S.A. 26:2H-1 et seq.

this

LICENSE

to

HOUSE OF THE HOLY COMFORTED

which is hereby licensed to operate

HOUSE OF THE HOLY COMFORTER CANTERBURY VILLAGE
33 MOUNT PLEASANT AVENUE
WEST ORANGE, NEW JERSEY 07052

a(n):

COMPREHENSIVE PERSONAL CARE HOME

Consisting of:

Comprehensive Personal Care Beds 40

FACILITY #: N2K04D

EFFECTIVE: February 1, 2011

EXPIRES: January 31, 2012



Peonam Alaigh

Peonam Alaigh, MD
Commissioner

MUST BE POSTED IN A CONSPICUOUS PLACE IN THE FACILITY

THIS LICENSE IS NOT TRANSFERABLE TO ANY OTHER FACILITY IN THE STATE OF NEW JERSEY. ANY VIOLATION OF THE TERMS OF THIS LICENSE SHALL BE CAUSE FOR REVOCATION OF THE LICENSE.

CASEY & KELLER, INC.
LAND SURVEYORS - CIVIL ENGINEERS - PLANNERS

250 MAIN STREET, MILLBURN, NEW JERSEY, 07041
VOICE: 973-979-3260 FAX: 973-979-7999

PLANNING REPORT:

CANTERBURY VILLAGE
PROPOSED ADDITION & RENOVATIONS

33 MOUNT PLEASANT AVENUE
BLOCK 88, LOT 26
TOWNSHIP OF WEST ORANGE
ESSEX COUNTY, NJ

PROJECT # 1110332
DATE: July 15, 2011

RECEIVED
AUG 19 2011
W.O. PLANNING DEPT.



Richard A. Keller, P.E. & P.P.
NJ Reg. # 33LI004571

ZB-11-17

PLANNING REPORT
CANTERBURY VILLAGE
33 MOUNT PLEASANT AVENUE
WEST ORANGE, NJ

INTRODUCTION

The House of the Holy Comforter, which trades as Canterbury Village is a not-for-profit Comprehensive Personal Care Home located at 33 Mount Pleasant Avenue in West Orange. The applicant seeks amended site plan approval for the purposes of reorganizing, renovating and expanding the existing facility to enhance the living experience for the residents of Canterbury Village and their families and guests.

Canterbury Village is licensed by the New Jersey State Department of Health & Senior Services (NJSDOHSS) as a Comprehensive Personal Care Home. Within this licensing designation, Canterbury Village provides assisted living services to its full-time residents when needed, but is NOT defined an assisted care facility.

A Comprehensive Personal Care Home is not a permitted principal, accessory or conditional use within the OB-2 Zone. Accordingly, the applicant is seeking a variance from the West Orange Zoning Board of Adjustment under the New Jersey Municipal Land Use Law (MLUL) § 40:55D-70.d.(2) to allow the expansion of this inherently beneficial, existing non-conforming use. Under MLUL, the Township of West Orange Board of Adjustment retains jurisdiction to approve the site plan and any other bulk variances and waivers required.

EXISTING SITE CONDITIONS

The site is a 2.181 acre parcel located on the north side of Mount Pleasant Avenue approximately 300 feet west of Main Street and 420 feet to the east of NJ State Highway Route 280. The site is directly north across Mount Pleasant Avenue from the Township of West Orange Municipal Plaza and Library and is located wholly within the OB-2 Office Building Zone.

The property is "L" shaped, with 177 feet of frontage along Mount Pleasant Avenue and a depth of approximately 326 feet. At a distance of 192 feet from the street, the lot expands to the north from 177 feet in width to approximately 327 feet and is over 355 feet wide at the rear property line. The rear of the property is occupied by a heavily wooded buffer which also contains an open stream that flows from west to east. To the north of the stream and wooded buffer are properties that front on Wildwood Avenue in Llewellyn Park and are located in the R-1 Residential Zone.

The site is currently occupied by a 1 and 2-1/2 story, 40 bed, residential health care facility that has a footprint of approximately 23,750 square feet. The building location is biased along the easterly property boundary. The 2-1/2 story portion of the existing facility fronts on Mount Pleasant Avenue and is the original home which the House of the Holy Comforter began using as a home for elderly women in 1921. In the 1950's a small block of rooms was added to the rear of the main house. To the rear of the 2-1/2 story portion of the structure is a 1 story brick portion of the building that houses the bulk of the residential units. This portion was approved by the Township of West Orange Zoning Board of Adjustment in 1995, with construction completed in 1998. moby

Access to the site is from Mount Pleasant Avenue via an entry drive which runs along the westerly property line. This existing 18 foot wide, 2 way driveway provides access to the building and connects to the existing 26 car parking lot located in the widest portion of the lot in the northwest third of the property.

Existing building coverage is 25% where 30% is permitted by code. Existing lot coverage is 42% where 50% is permitted.

PROPOSED PROJECT

As stated in the introduction, the applicant seeks site plan approval for the purposes of reorganizing, renovating and expanding the existing facility to enhance the living experience for the residents of Canterbury Village and their families and guests.

The principal organizing element of the proposed expansion is a 4,571 square foot, 1 story infill building addition that closes off the existing "C" shaped 1 story portion of the existing building. The addition contains an entry vestibule, an improved and more secure lobby/reception area, a new library and a large great room that includes a fireplace, generous seating areas and a café area. This connective wing also allows for better circulation within the building and allows for multiple routes between the residential units and the recreational and shared spaces within the complex.

In addition to providing improved amenities and circulation, the proposed development will provide 1 additional private residential unit and 6 additional semi-private residential units, resulting in the ability of Canterbury Village to accommodate up to 13 new residents. Most of the new units have been created within the existing structure by consolidating the shared/public spaces into the new addition. The proposed addition contains 3 residential units.

By placing the addition within the limits of the existing building, the expansion will have no significant impact on the surrounding neighbors. The addition will not be seen at all from Mount Pleasant Avenue or from the contiguous properties to the east or north. The placement of the addition also creates 2 internal courtyards within the building which provide light and ventilation to both the residential units and shared spaces. The courtyards are also accessible for secure use by the residents.

The addition provides a new visitor entrance in close proximity to and facing toward the existing 26 car parking lot. This entrance eliminates the need for visitors to walk along the narrow entry drive to access the existing front entrance which currently faces Mount Pleasant Avenue. To accommodate the new entrance location, a portion of the entry drive will be re-aligned and expanded to provide adequate area for pedestrian drop off and circulation. A new sidewalk will provide access from the existing parking lot to the new entry.

The realignment and expansion of the driveway will require the removal of 1 evergreen tree and some small shrubs. A proposed landscape plan has been provided, which includes 14 new evergreen trees, 6 new ornamental trees, 44 new evergreen shrubs, ground cover and a seasonal flower bed. The landscape plan has been designed to screen the proposed addition from the contiguous property to the west.

CONDITIONAL USES PERMITTED IN THE OB-2 ZONE:

The project site is located within the OB-2 Office Building Zone.

In June of 1995, the West Orange Zoning Board of Adjustment through Resolution ZB-95-16, deemed that Canterbury Village was operating as a permitted use within the OB-2 Zone district. Since that time there have been 2 significant changes that appear to render that decision moot :

- The services offered by Canterbury Village have evolved along with new licensing classifications within NJSDOHSS, so that the services offered today are not identical to those offered in 1995.
- The governing body modified the zoning ordinance to include a number of similar uses as permitted conditional uses within the zone.

The Township of West Orange Land Use Regulations and Zoning Ordinance currently allows the following conditional uses within the OB-2 Zone:

- Nursing Home/Long Term Residential Facility §25-24.2b.1.(g).
- Congregate Care §25-24.2b.1.(h).
- Residential Health care §25-24.2b.1.(i).
- Assisted Living §25-24.2b.1.(j).

All of these uses are defined and licensed by the NJSDOHSS. The definitions of each of these uses within the zoning ordinance (§25-4b.) are consistent with the State regulations. While Canterbury Village may offer some of the services that are integral to these permitted conditional uses, by license and definition it is a different use and is therefore a prohibited use within the OB-2 Zone.

ZONING REQUIREMENTS

The West Orange Zoning Ordinance applies the following bulk standards to development within OB-2 Office Building Zone;

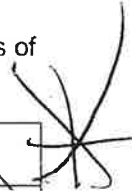
Criteria	Required / Allowed	Proposed	Comments / Notes
MINIMUM			
Lot Area	10,000 sf.	95,004 sf.	
Lot Width	60 ft.	177.0 ft.	
Lot Frontage	45 ft.	177.0 ft.	
Front Yard	30 ft.	23.1 ft.	Existing non-conforming condition to remain
Side Yard - left	10 ft.	23.7 ft.	
Side Yard - right	8 ft.	8.7 ft.	
Rear Yard	30 ft.	49.67 ft.	
Open Space	30 %	52 %	
MAXIMUM			
Building Coverage	30 %	30 %	Existing = 25.0 %
Building Height (New Building)	4 stories	1 story	A portion of the existing building is 2.5 stories
Building Height (New Portion)	48 ft.	18 ft +/-	A portion of the existing building is 32 feet +/-
Lot Coverage	50 %	47 %	Existing = 42.0 %
PARKING			
Number of Spaces	60 spaces	26 spaces	C1/C2 Variance (Existing req. = 48 spaces)

Note: Items noted as an Existing Non-Conforming Condition to Remain represent pre-existing conditions that have neither been created nor exacerbated by the current application.

This proposed site plan does not comply with the following general and/or supplemental requirements of the Zoning Ordinance:



Criteria	Required / Allowed	Proposed	Comments / Notes
Parking Setback To Property Line	75 ft.	14.60 ft.	Existing non-conforming condition to remain § 25-8.1b
Parking Setback To Residential Zone Prop. Line	100 ft.	92.5' +/-	Existing non-conforming condition to remain § 25-8.1b
Driveway Width (Exist.)	24 ft.	18 ft.	Existing non-conforming condition to remain §25-12.1.h.6
Driveway Width (Prop.)	24 ft.	20 ft.	C1 variance: §25-12.1.h.6



D(2) VARIANCE: EXPANSION OF AN EXISTING NON-CONFORMING USE

Positive Criteria

MLUL, under § 40:55D-70.d empowers a municipal board of adjustment to approve a use variance only in "in particular cases and for special reasons." This demonstration of "Special Reasons" is known as the "positive" criteria. The standard for establishing special reasons depends on the type of (d) variance at issue.

Case law allows that special reasons exist whenever a project advances the purposes of zoning. (Kohl v. Mayor of Fair Lawn, supra, 50 NJ at 276 (1967)) The purposes of zoning are enumerated in MLUL 40:55D-2. Among the purposes of the act are:

- a. To encourage municipal action to guide the appropriate use or development of lands in a matter that will promote the public health, safety, morals & general welfare.
- g. To provide sufficient space in appropriate locations for a variety of residential & commercial uses, both public & private, in order to meet the needs of all NJ citizens.
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.

It has long been held that certain educational, charitable or institutional uses such as a residential health care facility are deemed inherently beneficial, and therefore automatically meet the positive criteria by advancing the "general welfare" of the public. (Sica v. Bd. Of Adjustment of Township of Wall, 127 NJ 152, 159-60, 603 A. 2d 30, 34 (1992))

The general welfare of the public can also be advanced upon demonstration that a site is particularly suited for the proposed use. (Medici v. BPR Co., 107 NJ 1, 18, 526 A.109, 118 (1987)) When seeking a variance for a new commercial facility prohibited in the zoning ordinance, the Medici court actually demands a showing that the site is particularly suited for the proposed use.

However, when seeking an expansion of a pre-existing non-conforming use, a lesser showing of special reasons will suffice for the (d)(2) variance, in that any of the purposes of the MLUL may be advanced. (Burbridge v. Mine Hill Township, 117 NJ 376, 568 A2d 527 (1990)) The Burbridge court states that "cases in which the variance would create an entirely new nonconforming use require greater proof to demonstrate the merits of such a variance than do cases in which an applicant seeks only a minor expansion of a pre-existing nonconforming use."

The Burbridge court further states that "appearance, aesthetics and compatibility of the use in the neighborhood become uniquely significant, especially when there is not any evidence that the use is ever going to whither and die." Burbridge also held that in certain circumstances, aesthetic improvement alone can justify a variance to expand a pre-existing non-conforming use.

It is my professional opinion that the proposed expansion of the Canterbury Village facility meets the Positive Criteria by advancing the following 3 purposes of zoning:

- The proposed expansion promotes public health, safety & general welfare by providing a better, safer and more modern living environment for the residents and their families. The expansion further allows for the reorganization of the facility which creates a safer arrival sequence for visitors and increased security for the residents. (MLUL § 40:55D-2.a.)

- The proposed expansion allows for the continued existence and improved operation of a small scale residential health care facility which offers a more intimate experience than what has become the industry norm. (MLUL § 40:55D-2.g.)
- The proposed building addition is appropriately scaled to the existing building and site and creates a significantly more attractive façade to visitors. (MLUL § 40:55D-2.i.)

Negative Criteria

MLUL further states that "no variance can be granted without a showing that such a variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance." This is known as the "negative criteria."

Burbridge also gives direction to the application of the negative criteria. Citing earlier case law, the Burbridge court summarized that "expansions of existing nonconforming uses ordinarily are less disruptive to the zoning plan than new nonconforming uses." Case law finds that a limited extension of a pre-existing non-conforming use will ordinarily be less likely to involve substantial impairment of the zoning plan than will be the creation of a wholly new use of such nature. This is especially evident when the non-conforming use is a permitted conditional use within the zone.

It is my professional opinion that the proposed expansion of the Canterbury Village facility meets the Negative Criteria as follows:

- The architectural solution to the physical expansion of the facility produces no detriment to the public good.
- The placement of the addition as a connective element within the existing "C" shaped structure limits visibility from neighboring properties.
- The 1 story infill expansion does not add mass to the existing structure, further reducing visibility and preserving the character of the neighborhood.
- The size and character of the expansion also preserves the use of air light and open space on the neighboring properties.
- There is no detriment to the zone plan and zoning ordinance since the use is a permitted conditional use within the zone and in the context of the applicant's proposed plan, the site continues to be appropriate for the use, notwithstanding the deviations from some of the conditions imposed by the ordinance.

"C" VARIANCES – POSITIVE CRITERIA

The Municipal Land Use Law under sections 40:55D-70c.(1) & 40:55D-70c.(2) provides the basis for the requested variance relief related to deviations from the specific conditions of a conditional use and design standards as outlined above.

The c(1) criteria speaks to certain practical difficulties that the site's size, shape, topography, unique physical features or placement of existing structures might impose on the property to be developed.

The c(2) criteria, often referred to as the "flexible c" criteria allows that the governing body may approve a zoning deviation where the application advances the purposes of the MLUL and the benefits of the deviation will outweigh the negative impacts resulting from the grant of the requested variance.

Existing Non-conforming Conditions:

C(1) Criteria:

A portion of the existing facility predates the current zoning ordinance and does not meet the ordinance requirement for Front Yard. The existing site also deviates from the parking setback requirements of the Supplemental Provisions for the OB-2 Zone contained in Section 25-8. These existing non-conforming conditions are to remain unchanged by the application.

Any attempt to meet the front yard requirements would require the demolition of the historic portion of the facility. Given the lot configuration, any attempt to meet the parking setback would virtually eliminate the parking lot altogether.

The size and shape of the property, combined with the location of the lawfully existing building and parking lot create a practical difficulty or hardship upon Canterbury Village in any attempt to expand or improve the facilities or bring the site into closer compliance with the zoning ordinance.

Parking

Minimum Parking Spaces: 60 Spaces Required, 26 Spaces Proposed

The West Orange Zoning Ordinance §25-12.2 identifies the minimum required number of parking spaces based upon the use of the property. None of the defined uses matches Canterbury Village. The most analogous use identified in this section of the ordinance would be §25-12.2g.: hospital, nursing home, sanitarium or minimum care facility, which requires 1 space for each bed plus 1 space for every 2 non-resident employees. This yields a parking requirement of 60 spaces for the proposed 53 beds and 13 non-resident employees.

It should be noted that the parking requirement for Residential Healthcare facility or Assisted Living facility as outlined in §25-24.2b.1.(i)(8) & §25-24.2b.1.(j)(8) respectively are more analogous to the parking demand generated by Canterbury Village. The criterion for either use is 1 parking space per 1.5 beds which yields a requirement of 36 spaces for the 53 beds.

C(1) Criteria:

The L shaped configuration of this undersized, lot, the presence of a stream along the northeasterly boundary and its required stream encroachment and riparian setbacks and the location and configuration of the existing building do not allow for any expansion of the parking lot to provide additional parking.

C(2) Criteria:

Canterbury Village is a licensed Comprehensive Personal Care Home in which none of the residents operate or maintain vehicles. The parking lot is used solely by the staff and visitors. Canterbury Village will offer testimony that the existing parking lot will accommodate the potential increase in residents from 40 to 53. Since the existing parking will meet the anticipated demand, any increase in parking would merely increase the total amount of impervious coverage at the expense of landscaping. Accordingly, we feel that the benefit of the deviation outweighs any detriment.

The purposes of the MLUL advanced are:

40:55D-2c. Provision of adequate light, air and open space.

40:55D-2i: Aesthetic enhancement

40:55D-2j: Conservation of open space & natural resources; prevention of urban sprawl and degradation of the environment through improper use of land

Driveway Width:

Minimum Width: 24' Required, 20' Proposed, 18' Existing to remain

C(1) Criteria:

The narrow lot width of this L shaped undersized lot, combined with the location and configuration of the existing building does not allow for viable 24 foot wide two-way driveways as required by code. The existing driveway in the front area of the site will remain at 18 feet in width and cannot be expanded. Once past the existing building, the driveway will be expanded to a width of 20 feet. In the area of the new building addition, the driveway will be further expanded to 28 feet to allow for a 20' wide, 2-way driveway and an 8 foot wide barrier-free drop-off area immediately in front of the new building entrance.

"C" VARIANCES – NEGATIVE CRITERIA

MLUL requires a showing that the "C" variance relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

It is my professional opinion that the granting of the C variances requested will not result in any detriment to the public good. Any potential negative effects of the proposed project have been mitigated through the following design features:

- The placement of the addition as a connective element within the existing "C" shaped structure eliminates any visibility from neighboring properties to the north, south and east.
- A generous landscape plan will limit visibility of the addition for neighboring properties to the west of the site.
- The landscape plan further reduces the scale of the 1 story addition and helps to define the new building entrance.
- The landscape plan includes a mix of evergreen trees and evergreen shrubs that provide year round screening. The mix of ornamental trees specified produce different color leaves and flowers at different times during the seasons to provide a variety of changing color and textures throughout the year.
- The 1 story infill expansion does not add mass to the existing structure, further reducing visibility and preserving the character of the neighborhood.
- The size and character of the expansion preserves the use of air light and open space on the neighboring properties.

- The existing parking lot is well screened from the neighbors.
- The existing parking inventory of 26 spaces is more than adequate for the expanded residential capacity.
- The new building entrance contained in the proposed addition is closer to the parking area with new sidewalks. This reduces the need for pedestrians to use the driveway and improves safety.
- The driveway configuration with an added barrier free drop off area allows for safe 2 way traffic despite not meeting the code requirement for West Orange. The proposed configuration improves safety over the existing condition.
- The proposed application preserves and enhances the character of the existing neighborhood with no negative impacts on the surrounding properties including the residentially zoned properties to the north.

It is my professional opinion that the C variances will not impair the intent and purpose of the zone plan and ordinance. The variances sought allow for the safe and attractive expansion of a longtime and respected use within the community.

CONCLUSION

The proposed reorganization, renovation and expansion of the existing Canterbury Village facility will improve the quality of life for its residents and their families through improved security, enhanced amenities, better circulation and a better quality of care. The carefully scaled, one story building addition along with a comprehensive landscape plan will create a more attractive campus while preserving the character of the neighborhood.

It is my opinion that this project meets the standards for the grant of variances under section 40:55D-70d(2) and 40:55D-70c of the MLUL. It is my further opinion that the project will not have a substantial detrimental impact upon the zone plan, zoning ordinance or public good of the Township of West Orange. Because the proposed development meets the statutory criteria outlined, the West Orange Zoning Board of Adjustment is empowered by the New Jersey MLUL to approve the proposed development including the variances requested.

As a professional planner, I feel this project will be beneficial to the residents of Canterbury Village, the surrounding neighbors and the Township of West Orange. I ask that it be approved.



TOWNSHIP OF WEST ORANGE

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

PLANNING AND DEVELOPMENT

ROBERT D. PARISI
Mayor

SUSAN BORG, A.I.C.P., R.A.
Planning Director

Tel: (973) 325-4110
Fax: (973) 325-6359
Email: SBorg@westorange.org

TO: Zoning Board Members

FROM: Director Susan Borg, P.P., A.I.C.P., R.A.

DATE: August 22, 2011- **Updated 10/27/11**

RE: ZB-11-17/House of the Holy Comforter t/a Canterbury Village
Block: 88; Lot: 26; Zone: OB-2
33 Mt. Pleasant Avenue
Seeking "D" and "C" variances for expansion and renovations to an existing non-conforming use

INTRODUCTION

The applicant, a not for profit **Comprehensive Personal Care facility**, is seeking amended site plan approval for a one story, 4,571 square foot expansion and renovation of an existing non-conforming use with a "D" and "C" variances.

While the West Orange zoning ordinance does not define Comprehensive Personal Care Facility, it does have conditional uses for Residential Health Care which is similar in use. This is in the conditional use section in Chapter 25-24.2b.1 (i). I am looking at these conditions as an analysis for this application and compare them to the OB-2 zone.

LAND USE

The property is located in an OB-2 zone. Surrounding land uses are residential dwellings, Llewellyn Park to the north, the West Orange Library to the south and an open stream in the rear of property on the north side.

SUBMISSIONS**ITEM****SIGNED BY****DATE/REVISION**

Copy of License to operate a health facility from the State

Poonam Aligh, MD, Commissioner 8/19/11

Application for tree removal and replacement Permit

Applicant 8/19/11

Prior Planning Board

8/19/11

Zoning Board resolutions

Health Facility License

NJ Health Care Commissioner 8/19/11

Approval letter from the State

Dept. of Health & Senior Serv. 8/19/11

Planners Report

Richard A. Keller, P.E. & P.P. 8/19/11

Land Survey

Alfred R. Coco, Engineer 8/19/11

Site Plans

Edward Brogan, P.E. 8/19/11

Existing Conditions & Demo Plan

Edward Brogan, P.E. 8/19/11

Grading & Utility Plan

Edward Brogan, P.E. 8/19/11

Landscape Plan

Edward Brogan, P.E. 8/19/11

Lighting Plan

Edward Brogan, P.E. 8/19/11

Soil Erosion & Sediment

Control Plan & Details

Edward Brogan, P.E. 8/19/11

Drainage Area Map

Edward Brogan, P.E. 8/19/11

Architectural Plans

KDA Architects 8/19/11

Elevations

KDA Architects 8/19/11

Drainage & Storm water

Management Report

Edward Brogan, P.E. 8/19/11

Colored Photos of

Existing Conditions

8/19/11

VARIANCES REQUIRED (compared to the conditional use sect. 25-24.2B.1 (i))**SECTION****REQUIRED****PROPOSED****VARIANCE**

25-12.1(h) (6) driveway width expansion of conditional use

24 ft.

20ft.

C

D

25-12.2(g) parking spaces

60 spaces

26 spaces

C

25.24.2b.1(i) Lot Area

5 acres(cond.)

95,004 sq. ft.

C

25.24 Lot Width

350 ft. (cond.)

177.0 ft.

C

25.24 Lot Frontage

350 ft. (cond)

177.0 ft.

C

25.24 Front Yard

150 ft. (cond)

23.1 ft.

C

25.24 Side Yard – left

150 ft. (cond)

23.7 ft.

C

25.24 Side Yard – right

150 ft. (cond)

8.7 ft.

C

25.7 Rear Yard

150 ft. (cond)

49.67 ft.

C

25.7 Max. Building coverage

25% (cond)

30%

C

25.7 Lot Coverage

35% (condit)

47%

C

ZONING REQUIREMENTS COMPARED TO THE OB-2 ZONE

<u>SECTION</u>	<u>REQUIRED</u>	<u>PROPOSED</u>
25.7 Lot Area	10,000 sq. ft.	95,004 sq. ft.
25.7 Lot Width	60 ft.	177.0 ft.
25.7 Lot Frontage	45 ft.	177.0 ft.
25.7 Front Yard	30 ft.	23.1 ft.
25.7 Side Yard – left	10 ft.	23.7 ft.
25.7 Side Yard – right	8 ft.	8.7 ft.
25.7 Rear Yard	30 ft.	49.67 ft.
25.7 Max. Building coverage	30%	30%
25.8 Building Coverage	30%	30%
25.8 Building Height (new bldg.)	4 stories	21/2 existing story
25.8 Building Height (new portion)	48 ft.	18ft.
25.7 Lot coverage	50%	47%

VARIANCE NEEDED FOR OB-2 ZONE

<u>SECTION</u>	<u>REQUIRED</u>	<u>PROPOSED</u>
25-8.1b Parking setback to property line	75 ft. (	14.60 ft.
25-8.1b Parking setback to residential zone property line	100 ft.	92.5 ft. +/-
25-12.1h.6 Driveway width (exist.)	24 ft.	18 ft.
25-12.1.h.6 Driveway width (prop.)	24 ft.	20 ft.

REQUESTED WAIVERS

<u>SECTION</u>	<u>ITEM</u>
25-13	Environmental Impact Statement
31-1.6 (b)	Tree removal application fee
	Traffic Study

DISCUSSION/RECOMMENDATIONS

Canterbury Village is a Personal Care Facility that provides assisted living services. They are licensed by the State of New Jersey Department of Health and Senior Services.

The applicant was approved for a preliminary and final site plan in 1995, by the West Orange Planning Board, and is now seeking to amend that site plan. They also received approval in 1995, by the West Orange Zoning Board of Adjustment, for a licensed health care facility as a permitted use in the OB-2 zone.

The acreage of the site is 2.18 and the addition will increase the square footage approximately

4500 square feet at the west side of the visitor's entrance in the rear. This facility originally housed fifteen (15) beds and currently has forty (40) beds. The addition will add an additional thirteen (13) beds; one (1) private residential unit and six (6) semi-private units.

The addition also contains a new entry vestibule, a lobby, a new library and a great room with a fireplace and café area. The plan includes a new visitor entrance relocated near the parking lot which will create better pedestrian traffic.

At this time, they are proposing to amend that site plan by building an addition to the rear of the existing structure. This expansion requires a "D" variance for the non-conforming use.

The expansion also requires the driveway to be re-aligned, to provide adequate space for the drop off area, which will require a "C" variance. They are proposing a 20 ft. wide driveway and 24 ft. is required. The re-alignment will also require one tree and some shrubs to be removed. It is my opinion that the new service entry, which provides a sidewalk from the parking lot, will provide a safer pedestrian drop off.

The applicant requires a "C" variance for parking spaces. Because of the addition, sixty (60) spaces are now required and they are proposing the original 26 spaces. According to the applicant, the majority of their employees use mass transit and the residents do not drive or keep vehicles on site.

The Board needs to decide if the conditions in the Residential Health Care apply. If so many more variances are needed that are listed in the chart above.

The applicant is requesting a waiver of the Tree Removal Application fee stating that any additional fees would create a hardship on them. As a Township, we cannot legally waive this fee and the applicant will still be responsible for it.

The applicant is also requesting a waiver of the Environmental Impact Statement and Traffic Study. Because it appears that this expansion will not affect the surrounding neighbors and, since the residents do not drive and the staff will not be increased significantly, it is my opinion that a traffic study is not needed. Also, they are not increasing the building or lot coverage so the Environmental Impact Statement should also be waived. It should be noted that the applicant will be responsible to obtain any stream permits that are required.

I agree with their Planner, Richard Keller, who stated in his report that this expansion meets the positive criteria by advancing the following 3 purposes of zoning:

- "The proposed expansion promotes public health, safety & general welfare by providing a better, safer and more modern living environment for the residents and their families. The expansion further allows for the reorganization of the facility which creates a safer arrival sequence for visitors and increased security for the residents."
- "The proposed expansion allows for the continued existence and improved operation of a small scale residential health care facility which offers a

more intimate experience than what has become the industry norm.”

- “The proposed building addition is appropriately scaled to the existing building and site and creates a significantly more attractive façade to visitors.”

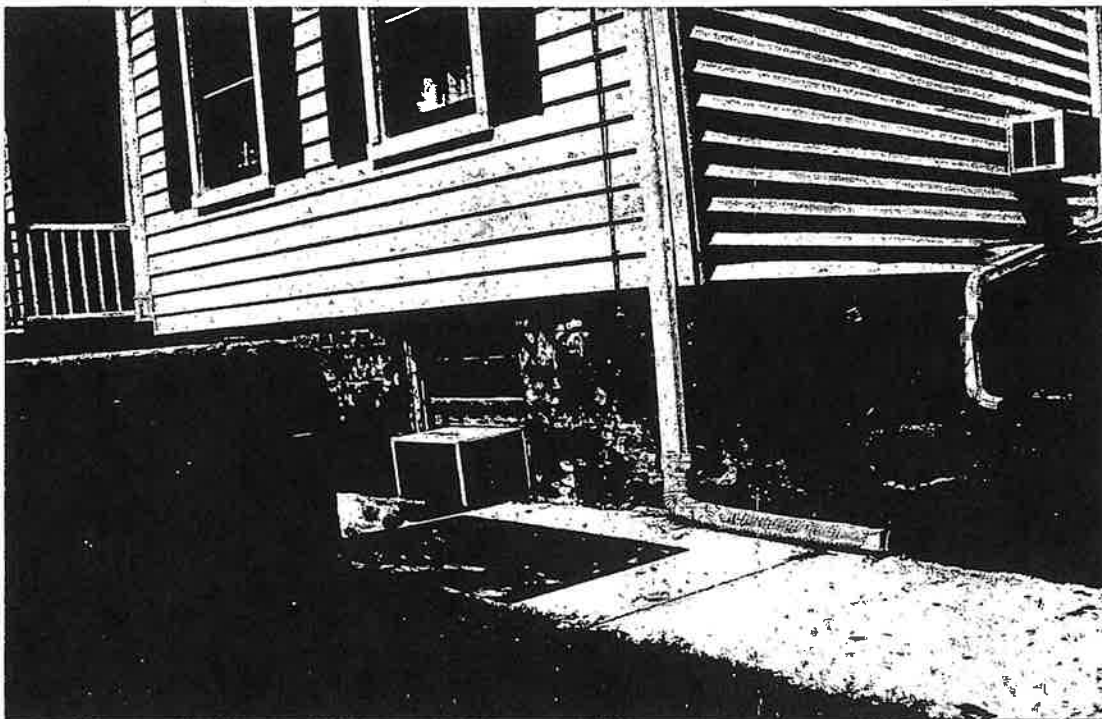
I also agree that the negative criteria will be met and that there will not be any detriments to the Zoning Plan and Zoning Ordinance.

My recommendation would be to reduce the height of the two (2) lights they are proposing to install in the parking lot, according to the lighting details in the plan, from 16 ft. to 14 ft. It should also be noted that the parking lot is adequately screened from the neighbors and that the landscape plan is also adequate.

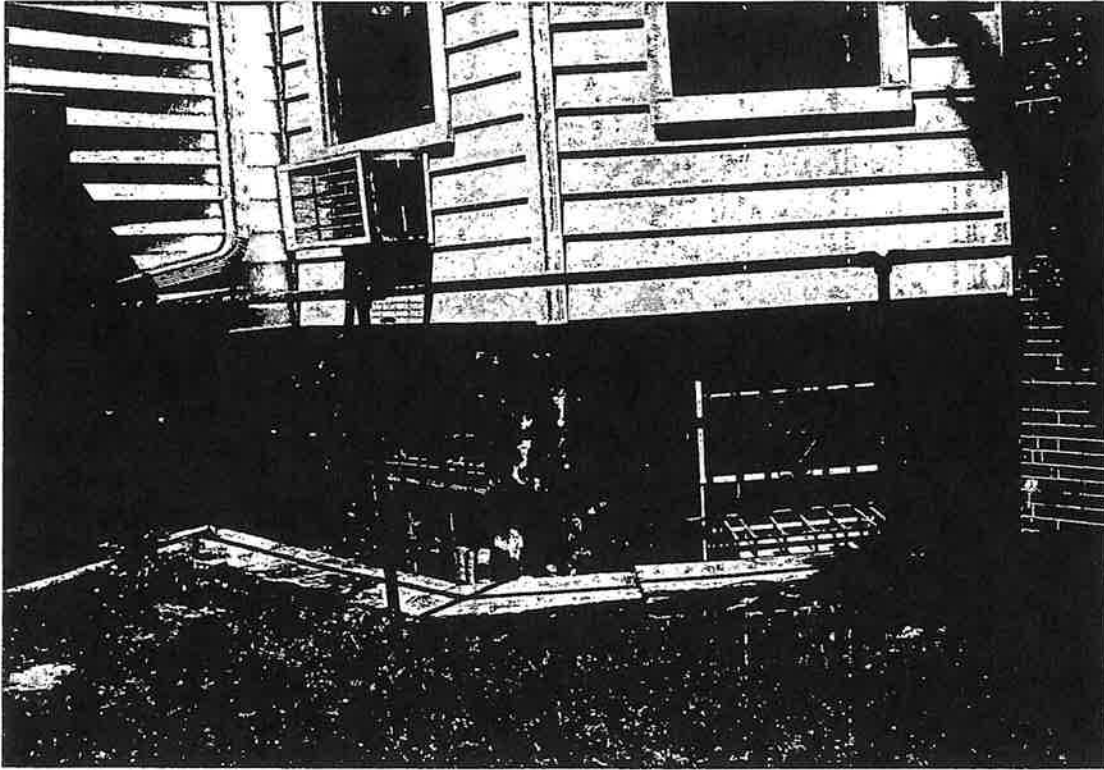
I would also like to recommend that they scrape and paint the foundation of the building located on Mt. Pleasant Avenue and re-locate and enclose the recycling dumpster that is occupying one of the parking spaces in the parking lot.

It should also be noted that, before any permits are issued from the Building Department, County approval must be obtained from the applicant.

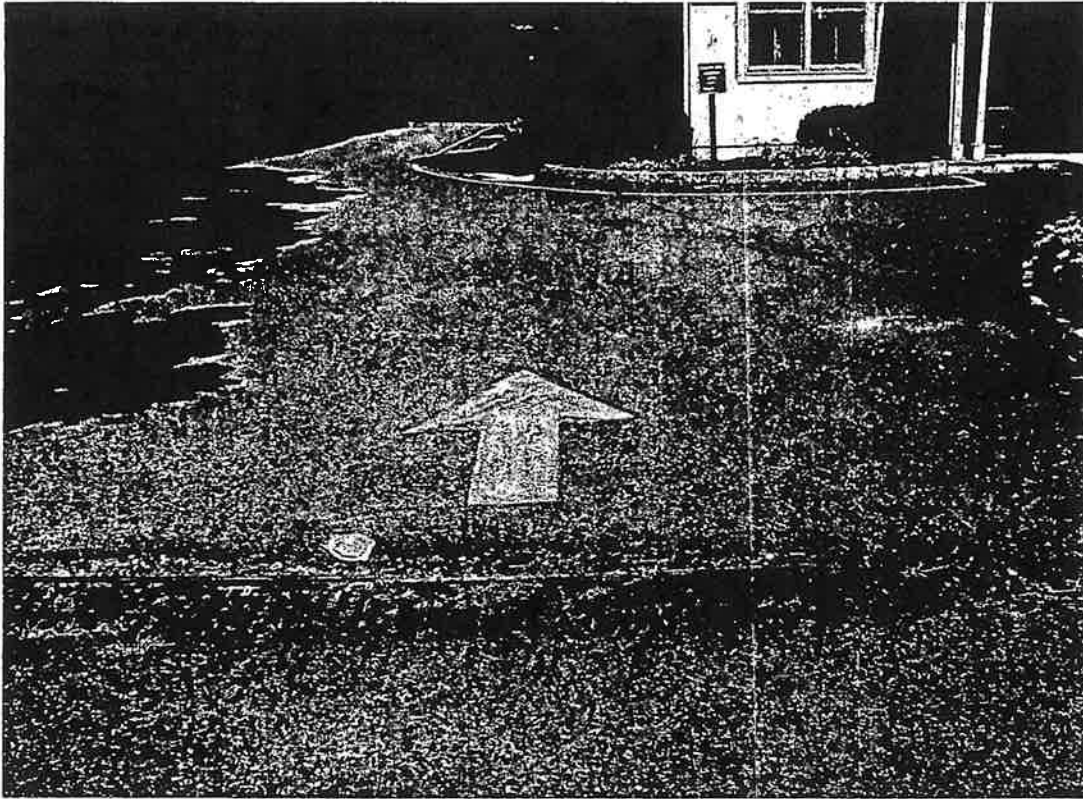
All opinions stated in this report are based on information submitted by the applicant. I reserve the right to change any opinions based on further testimony.



View of foundation at the east side of the residence front entrance on Mt. Pleasant Ave.
Needs scraping and painting



View of the foundation at the east side of the building on Mt. Pleasant Ave.
Needs scraping and painting



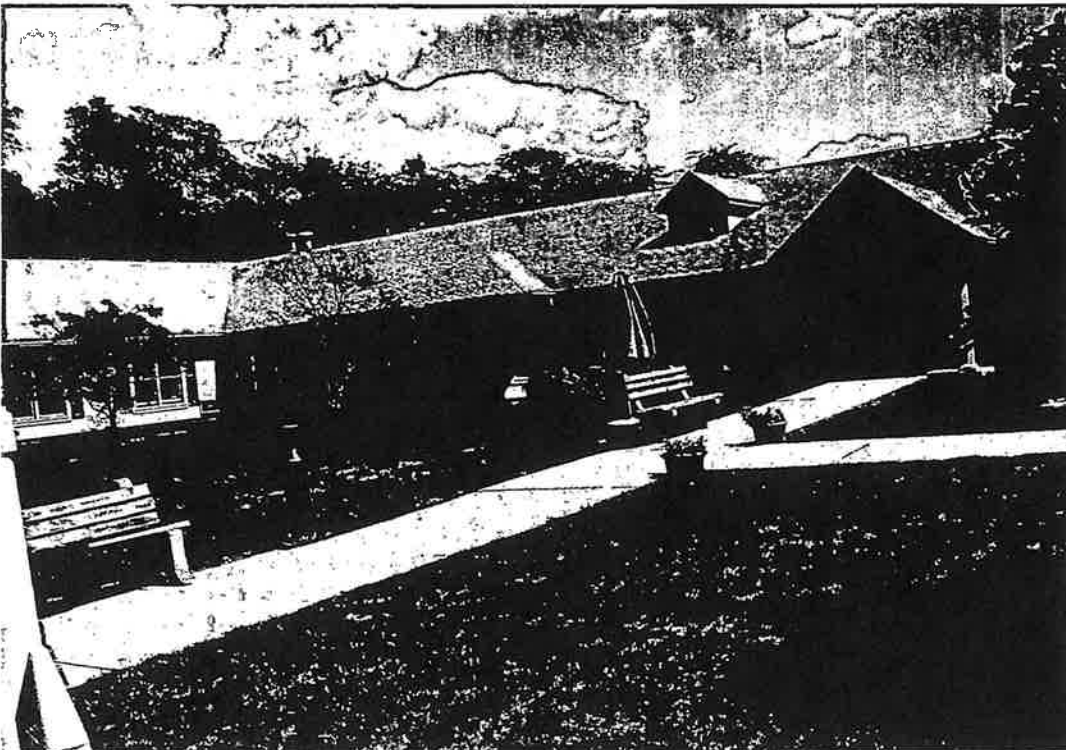
View of the driveway entrance at Mt. Pleasant Avenue



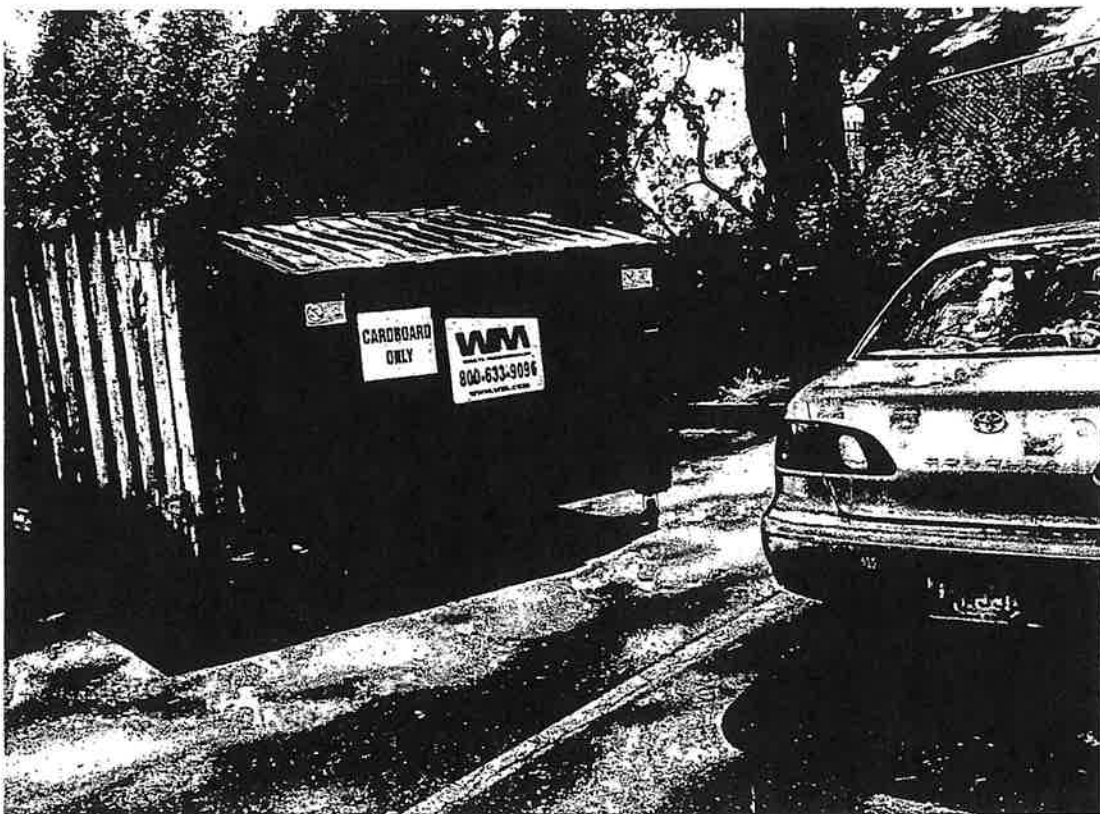
View of the front visitor's entrance of building on Mt. Pleasant Avenue



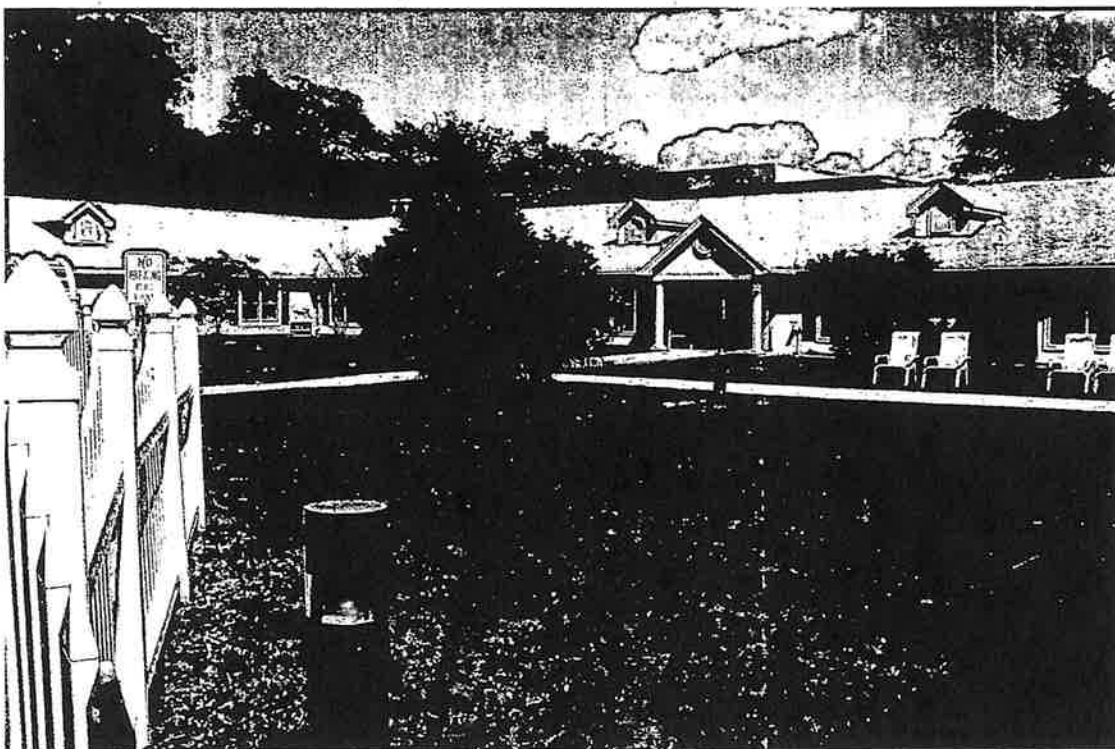
View of the parking lot at rear east side of building



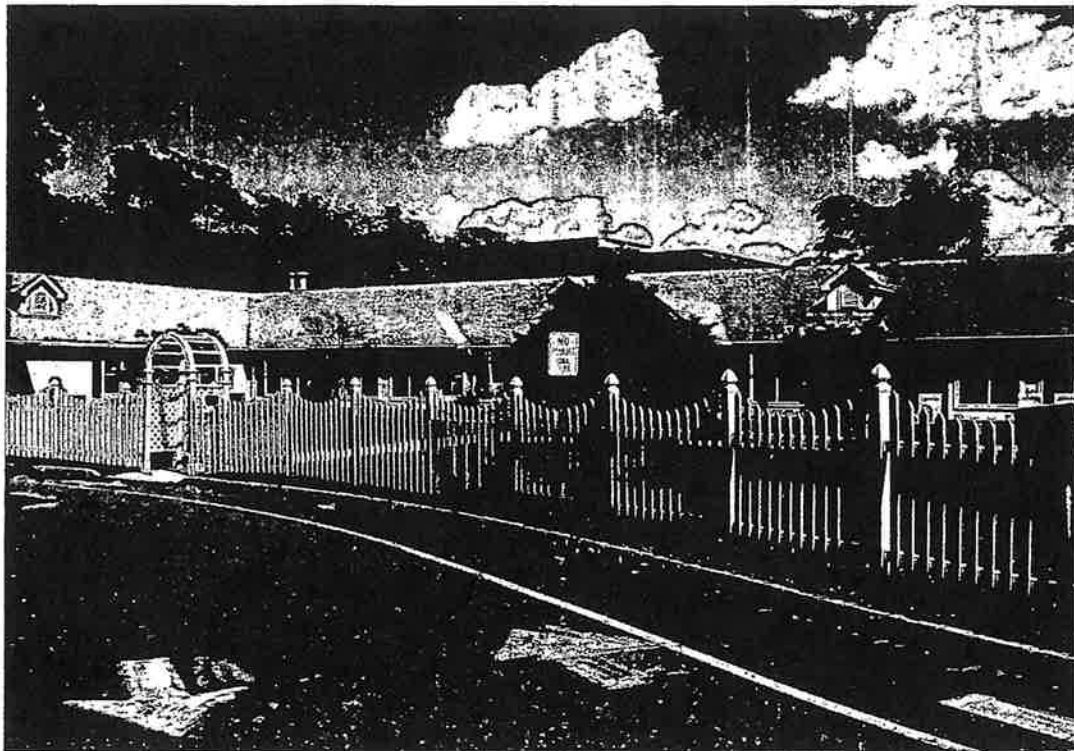
View of the resident's rear entrance



Recycling Dumpster in parking lot



Rear entrance for residents where addition is proposed



Fence and curbing in front of proposed addition site



Tree to be removed for driveway re-alignment

RESOLUTION

ZONING BOARD OF ADJUSTMENT

TOWNSHIP OF WEST ORANGE

The House of the Holy Comforter, t/a Canterbury Village

RESOLUTION ZB-11-17

WHEREAS, The House of the Holy Comforter, t/a Canterbury Village, ("the Applicant"), maintaining an office at 33 Mt. Pleasant Avenue, West Orange, New Jersey, being Block 88 Lot 26 on the Tax Map of the Township of West Orange (the "Property"), and located in the OB-2 Zone applied to the West Orange Zoning Board of Adjustment ("The Board") for amended preliminary and final site plan approval with "D" and "C" variances as follow: (1) a "D" variance for expansion of an existing non-conforming use as a comprehensive personal care home, when same is not permitted in the OB-2 zone; (2) a "C" variance 26 parking spaces when 60 is the minimum number of spaces required; (3) a "C" variance for minimum driveway width of 18 feet and 20 feet when 24 feet is the minimum width required for a two-way driveway, a traffic study waiver and for a tree removal permit, all for the construction and expansion of an existing Comprehensive Personal Care Home that the Applicant operates on site, ("the Application"); and

WHEREAS the Applicant presented proof that adequate notice of the hearing on the application was published in the West Orange Chronicle, one of the official newspapers of the Board; and

WHEREAS the Applicant submitted proof of notice of the hearing upon all property owners within 200 feet of the Property and all those entitled to notice; and

WHEREAS the Application was heard at a public meeting of the Board held on October 27, 2011; and

WHEREAS the Applicant's case was presented by Robert C. Williams Esq.; and

WHEREAS the Applicant presented the testimony of Edward Brogan, a licensed professional engineer of the State of New Jersey, who was accepted by the Board as such, he outlined the existing conditions, the prior improvements that have occurred in the past and the planned expansion of the building on site, how the expansion will allow for relocation of the front door to provide a safer ingress and egress for patients and visitors, and new configuration for deliveries, he discussed additional buffering to shield the new driveway, that the New Jersey Department of Environmental Protection ("DEP") approval is not required for these improvements, and that there is one area of steep slope that might require a retaining wall; and

WHEREAS the Applicant presented the testimony of David Danton, a licensed professional architect in the State of New Jersey, who was recognized by the Board as an expert in his field who discussed the architectural design of the expansion, which will add common areas for the residents, and 5 additional resident rooms and increase the total beds from 40 to 53, and discussed the proposed courtyard and entryway lighting, that the

proposal will require approval from the New Jersey Department of Community Affairs ("DCA"); and

WHEREAS the Applicant offered the testimony of Richard Keller, a licensed professional planner and engineer in the State of New Jersey (and no relation to Township Consulting Engineer Eric Keller, of Omland Engineering), Mr. Keller was offered as an expert in planning and accepted by the Board as such, Mr. Keller indicated that his report of July 15, 2011 encompassed all of this planned testimony, that the proposal, which calls for a filling in of the current "U" shaped building is a great reorganization of the space, the proposal maintains the existing buffers to Llewellyn Park and has the existing building absorbing all impact of the expansion with the exception of the driveway expansions, that the driveway and entrance redesigns promote the health safety and welfare of residents and other users of the building, that the Applicant has established the criteria for the "D" variance because the driveway and entrance redesigns promote the health safety and welfare of residents and other users of the building, and there is no detriment to the public good, or to the West Orange Zoning Ordinance or Zoning Master Plan, that the "C" variance for parking should be granted since no additional staff is contemplated after the expansion and the current parking lot adequately serves the needs of the facility and that the applicant seeks a waiver of the traffic study requirement since no real change in quantity of traffic is contemplated, although traffic flow throughout the site is improved, that the driveway

variance should be granted under a "C" "1" hardship standard, and that the application should be amended to request a continuance of the existing front yard set back that is not exacerbated by this Application and that in his opinion there are no negative impacts to the proposed development; and

WHEREAS the applicant offered the following exhibits;

- A-1 Existing Use
- A-2 Proposed Use
- A-3 Floor Plans
- A-4 Elevations
- A-5 Aerial Photograph
- A-6 Photographs 1-4
- A-7 Planner's Report

WHEREAS members of the Board questioned the witnesses and the Applicant's attorney; and

WHEREAS there was no questioning from any member of the public and no public comment on the Application; and

WHEREAS the Board having made the following specific findings and conclusions:

- A. The Applicant is the owner of the Property located at 33 Mount Pleasant Avenue, West Orange, New Jersey, being Block 88 Lot 26 on the Tax Map of the Township of West Orange, and located in the OB-2 Zone.

- B. The owner applied to the Board for Amended and preliminary site plan approval with "D" and "C" variances as follows: (1) a "D" variance for expansion of an existing non-conforming use as a comprehensive personal care home, when same is not permitted in the OB-2 zone; (2) a "C" variance for provision of only 26 parking spaces when 60 is the minimum number of spaces provided; (3) a "C" variance for minimum driveway width of 18 feet and 20 feet when 24 feet is the minimum width required for a two-way driveway, a traffic study waiver and for a tree removal permit, all for the construction of expansion of an existing Comprehensive Personal Care Home that the Applicant currently operates on site.
- C. The Applicant amended its Application at the hearing to request a "C" variance for continuation of a pre-existing front yard set back.
- D. The Applicant met the positive criteria for the "D" variances in that the Application will promote the health, safety and welfare of the community as a whole and particularly the users of this building due to the redesign of the entrance driveway for drop off and pick ups and added natural light in common areas.
- E. The negative criteria has been established in that there will be no negative impact from this Application because most of the expansion is contained within the "U" shape of the existing building and buffering is provided for the expanded driveway area, and the grant of the

Application as modified with the conditions herein will not substantially impair the intent or purpose of the West Orange Zone Plan or Master Plan or the intent of municipal zoning.

- F. The "C" "1" variance for driveway width is appropriate on a hardship standard due to the size of the site, the "C" variance for existing front yard setback is appropriate since no change at the front set back line is contemplated.
- G. The Applicant has established the criteria for the "C" parking variance since the testimony is that the existing parking lot is often less than half full and no additional staff is contemplated with expansion and the residents do not maintain cars on site.
- H. The purposes of the Municipal Land Use Law will be advanced by the granting of this variance application.

A motion to grant the Applicant's request for Amended and Preliminary Site Plan with a "D" and "C" variances as described herein was made by Chairman Neuer and seconded by Mr. Buechler and voted upon as follows:

Buechler	Aye
Bullock	Aye
Gabry	Aye
Steinhart	Aye
Sussman	Aye
Weiss:	Aye
Neuer:	Aye

NOW THEREFORE, be it resolved by the Zoning Board of Adjustment of the Township of West Orange, based upon the Findings of Fact and Conclusions aforesaid, and upon the laws established in the State of New Jersey, the Board hereby grants the Applicant amended preliminary and final site plan approval, "D" and "C" variances, a waiver and a permit as follows:

1. a "D" variance use as a Comprehensive Personal Care Home which is not permitted in the OB-2 zone.
2. a "C" variance for front yard setback of 23.1 feet when 30 feet is required.
3. a "C" variance for 26 parking spaces when 60 are required.
4. a "C" variance for driveway width of 18 and 20 feet when 24 feet is the minimum driveway width allowed.
5. a waiver of the requirement to submit a traffic report.
6. a tree permit in accordance with the submitted plans all to expand an existing Comprehensive Personal Care Home.

BE IT FURTHER RESOLVED that the grant of said variances shall be conditioned upon the Applicant's full and complete satisfaction of the following conditions:

1. All pole lighting in the parking areas shall be on 14-foot poles.
2. Residents of the facility shall not be permitted to maintain vehicles on site.

3. Before passage of this resolution, the Applicant's engineer shall certify that no steep slope variances are necessary.
4. Applicant's engineer shall submit to the West Orange Engineering Department an updated Operations and Maintenance Manual for the underground detention system prior to the issuance of a continued certificate of occupancy.
5. Any light emanating from any building mounted light fixtures will not cast light over the property line.
6. The interior courtyard lighting shall be minimal.
7. The approval is subject to the approval of the DCA.
If any changes are ordered to the plans as a result of that approval process, the Applicant must come back before this Board for approval of said changes.
8. Residents of the facility are to be restricted to the main level only.
9. The exteriors of the new addition will match the main colors of the existing structure.
10. A new sidewalk will be added to the plans to connect to the north side of the parking lot.

11. A decorative retaining wall adjacent to the driveway will be added to the plans.
12. There shall be no residential occupancy of the front main house of the overall building mix.
13. Ansul fire suppression shall be included if the "country kitchen" will include any appliances.
14. Leader drain locations shall be added to the plans before final approval.
15. Copies of any and all stream encroachment permits and the FEMA map shall be provided to the Board's engineer within 10 days of the date of this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting of December 8, 2011 and that said Resolution memorializes the action of the Board taken at its meeting held on October 24, 2011 granting the application, by a vote 7 in favor, 0 against and 0 abstentions.

December 8, 2011


Rose DeSena, Board Secretary

RESOLUTION

ZONING BOARD OF ADJUSTMENT

TOWNSHIP OF WEST ORANGE

APPLICATION: ZB-12-22

WHEREAS, House of the Holy Comforter t/a Canterbury Village, (the "Applicant"), owner of the property located at 33 Mount Pleasant Avenue, West Orange, New Jersey, also known as Block 88, Lot 26 on the Tax Map of the Township of West Orange and located in the OB-2 zone filed an application with the Zoning Board of Adjustment of the Township of West Orange ("the Board") for amended site plan approval, to amend approval received on December 8, 2011 in Resolution ZB 11-17 from the Board for construction and expansion of its existing facility; and

WHEREAS, construction pursuant to the previous approvals is approximately 80% complete and now the Applicant desires to relocate the trash enclosure to the north east corner of the property and to install an emergency generator on site; and

WHEREAS the Applicant presented proof that adequate notice of the hearing on the application was published in the West Orange Chronicle, one of the official newspapers of the Board; and

WHEREAS the Applicant submitted proof of notice of the hearing upon all property owners within 200 feet of the property and all others required to receive notice; and

WHEREAS the Application was heard at a public meeting of the Board held on January 17, 2013; and

WHEREAS the Applicant was represented by attorney Robert C. Williams, Esq.; and

WHEREAS, the Applicant presented the testimony of Edward Bogan, a licensed professional engineer of the State of New Jersey who was recognized as an expert in engineering, he testified about the requested changes to the approved site plan demonstrated the locations on the site plan of the new trash enclosure and the generator, he also discussed the noise level of the generator and that it will comply with all applicable noise regulations; and

WHEREAS the Applicant offered the following Exhibits:

A-1 Site Plan amended through 9/4/12

A-2 Landscape Plan through 9/11/11

A-3 Proposed Landscape Plan through 9/4/12;

A-4 Dumpster enclosure detail; and

WHEREAS, members of the Board questioned the Applicant's attorney and its witness; and

WHEREAS no members of the public asked questions or publicly commented on the Application; and

NOW THEREFORE, the Board hereby makes the following Findings of Fact and Conclusions of Law:

A. The Applicant is the owner of the Property located at 33 Mount Pleasant Avenue, West Orange, New Jersey, being Block 88 Lot 26 on the Tax Map of the Township of West Orange, and located in the OB-2 Zone.

B. The owner received site plan approval with variances on December 8, 2011 in Resolution ZB 11-17 for construction and expansion of its existing facility.

C. The Applicant now desires to relocate the trash enclosure to the north east corner of the property and to install an emergency generator on site and needs amended site plan approval to accomplish same.

D. The proposed amendments to the site plan are benign and do not represent any significant change to the approvals for construction and expansion granted on December 8, 2011.

E. The purposes of the Municipal Land Use Law will be advanced by the granting of this amended site plan approval.

A motion to grant the Applicant's request for Amended Site Plan approval as described herein was made by Chairman Neuer and seconded by Mr. Steinhart and voted upon as follows:

Bullock	Aye
Merklinger	Aye
Quentzel	Aye
Steinhart	Aye
Sussman	Aye
Weiss:	Aye
Neuer:	Aye

NOW THEREFORE, be it resolved by the Zoning Board of Adjustment of the Township of West Orange, based upon the Findings of Fact and Conclusions aforesaid, and upon the laws established in the State of New Jersey, the Board hereby grants the Applicant amended final site plan approval in accordance with the site plan dated September 4 2012.

BE IT FURTHER RESOLVED that the grant of said amended site plan approval is conditioned upon the Applicant's full and complete satisfaction of the following conditions:

1. The generator to be installed will be sound attenuated.
2. Any testing or routine running of the generator for maintenance purposes is to be completed during regular business hours (Monday-Friday from 9:00 a.m. to 5:00 p.m.) only.
3. All other conditions stated in Resolution ZB 11-17 dated December 8, 2011 remain in full force and effect.

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting of February 21, 2013 and that said Resolution memorializes the action of the Board taken at its meeting held on January 17, 2013 granting the

application, by a vote 7 in favor, 0 against and 0
abstentions.

Those in Favor: 6

Those Opposed: 0

Abstention: 0

February 21, 2013

 2/22/13
Rose DeSena, Board Secretary