

ZB-21-21
Daughters of Israel, Inc.
1155 Pleasant Valley Way
West Orange, New Jersey
Block 171, Lot 12

Proposal

Application Form, Section G. – Requirements for Variances, Item 4A)
Revised May 20, 2022

Background

Daughters of Israel, Inc. (“Daughters”) is a not for profit organization that has provided housing and services to the elderly of Essex County for over 100 years. Since 1962, Daughters has operated a skilled nursing facility in West Orange. Daughters currently offers its residents a variety of services including long-term care, sub-acute rehabilitation, memory care, hospice/palliative care, and respite stays.

With the passage of time and the evolving preferences for where and how people wish to live as they age, demand has risen for living arrangements which facilitate aging in place. These are often referred to as “continuing care retirement communities” or “continuing life communities” because they provide apartments for independent living, as well as assisted living, memory care and skilled nursing components, thereby allowing residents to age in place and transition from one level to another as their needs change, without having to relocate to a different facility.

To remain vibrant and to better serve the community’s needs, Daughters is commencing a multi-year program to become a “continuing life community.” This will involve rebuilding, renovating, and augmenting its campus along with the amenities and services it offers.

Project Description

The subject property consists of approximately 18 acres and is within the R-2 zoning district, which does not permit the proposed continuing life community (or the existing skilled nursing facility). The application to the Zoning Board of Adjustment (“Board”) seeks preliminary and final major site plan approval, use and bulk variances to redevelop the campus into a facility which offers independent living, assisted living and skilled nursing components. The specific relief requested is detailed on the accompanying document titled “List of Variances Required.”

- The **independent living component** will consist of up to 182 units, of which 85 are 1-bedroom units and 97 are two-bedroom units (some of both unit

types offer a den), ranging in area from 813 square feet (1 bedroom unit) to 1,540 square feet (2 bedroom + den, larger end unit).

- The **assisted living component** will consist of 64 beds, 20 of which will be memory care beds.
- The **skilled nursing component** will consist of 80 beds. By comparison, the existing facility is licensed for 303 beds, but in recent years, only approximately 130-150 have been occupied at any given time.

A community center will serve the independent living and assisted living components, consisting of approximately 43,296 square feet at full buildout, and will include amenities such as a fitness center with a pool, an auditorium, library/reading lounge, game room, art studio, salon, and meditation center. The facility will have a full kitchen for meal service to assisted living and skilled nursing residents, a formal dining room, a café, a pub serving alcoholic beverages (subject to obtaining a liquor license), and a small store selling sundries to residents, and will offer a variety of health and wellness services together with resident support. This may include physical and occupational therapy, physician visits, and other medical services.

As a continuing life community, it will be important to have the ability to introduce similar supportive and accessory uses, facilities and activities as the need for them arises, and to allow Daughters' to be responsive to the demands of its residents.

SPRAB Meeting & Subsequent Plan Revisions

This application came before the Site Plan Review Advisory Board ("SPRAB") on December 7, 2021, during which the applicant's representatives had the opportunity to explain the project, answer questions, and receive valuable comments from the Township's representatives. As a result of those comments, together with comments from immediate neighbors elicited at a meeting held in August and Daughters' desire to design a facility that meets its operational needs while respecting the concerns of the community, the configuration of the proposed campus redevelopment was revisited and the plans and project phasing adjusted accordingly. These are the highlights:

1. The building footprint was reduced and the independent living, assisted living and skilled nursing components were redistributed within the building to provide for a more efficient layout.
2. The building height was modified to be a consistent four stories, part of which is above an underground parking garage. Previously, higher building elements were close to Pleasant Valley Way (five stories above an underground parking garage). This change resulted in a reduction in building height of approximately 15 feet.

3. The significant wooded buffer will remain undisturbed so that it can continue to provide extensive screening as it does today.
4. The area of disturbance was slightly reduced so that fewer trees would have to be removed. The revised plan requires removal of 236 trees (a 40% reduction), of which 40 are dead and 43 are minor trees. This compares to the original plan which called for the removal of 393 trees in total. The applicant proposes to plant 223 replacement trees.
5. The community center serving the independent living and assisted living components has been redesigned and reduced in size by approximately 10,000 square feet.
6. The independent living total unit count has been increased to up to 182 units, from 160 units, and the assisted living bed count has been increased to 64, from 60. The number of skilled nursing beds remains unchanged at 80.
7. The variances for impervious coverage, and for effective building coverage and effective impervious coverage when steep slopes are taken into account, were all reduced because the reduction in building footprint allowed for less disturbance to steep slopes.
8. Numerous sustainability design standards and procedures have been incorporated into the project, as described in the Sustainability Checklist Form and Appendix annexed thereto. By way of summary, the sustainable design standards and procedures include:
 - a. Install green roofs on approximately 22% of the total roof areas, which will assist in lowering the heat island effect and also reduce storm water runoff;
 - b. Install solar roof panels on approximately 13% of the total roof areas;
 - c. Install water efficient landscaping;
 - d. Utilize lighting controls for building occupants and in shared spaces to enable adjustments to suit individual needs;
 - e. Conduct indoor air monitoring;
 - f. Develop indoor air quality management plan;
 - g. Utilize HVAC and building envelope designs which meet the requirements of ASHRAE Standard 55-2004, Thermal Environmental Conditions for Human Occupancy.

- h. Recycle or salvage 75% nonhazardous construction and demolition debris, and develop and implement a construction waste management plan that identifies the materials to be diverted from disposal.
- i. Utilize interior adhesives and sealants which have VOC limits under LEED guidelines.
- j. Utilize interior paints and coatings which have VOC limits under LEED guidelines.
- k. Utilize low-emitting flooring; and
- l. Achieve a direct line of sight to the outdoors between 30-90 in above the finished floor for 90% of regularly occupied building areas.

Refer to the Sustainability Checklist Form and Appendix annexed thereto for a more complete description.

Phasing

Construction will be phased. Three phases are presently anticipated, and a possible future fourth phase, as follows:

- **Phase One** will include 17,550 square feet of common and community areas, all 64 of the assisted living beds and all 80 of the new skilled nursing beds. Additionally, 244 of the existing skilled nursing beds will remain until a subsequent phase. There are no independent living apartments proposed in Phase One.
- **Phase Two** will include 87 independent living apartments and an additional 25,746 square feet of common and community areas (bringing the total to 43,296 square feet). During this phase, 106 existing skilled nursing beds will remain.
- **Phase Three** will involve development of 79 independent living apartments (bringing the total to 166). All of the remaining existing skilled nursing beds would be removed in this phase.
- **Phase Four** would include the development of the final 16 independent living apartments (bringing the total to 182). The decision whether to develop Phase Four will be made in the future.

The construction phasing plan continues to evolve and may be further refined as this application advances.

Period of Statutory Protection and Duration of Approval

Since the project is to be built in phases, it is difficult to predict with precision how long it will take from initial groundbreaking to project completion. If the project is approved by the Board, Daughters estimates that it will require approximately eight (8) years from the date of approval to the completion of Phase Three (i.e., until sometime in 2029). If Phase Four is constructed, total project completion would likely be several years after that.

Period of Statutory Protection

The Municipal Land Use Law (“MLUL”) recognizes that an applicant should be accorded a reasonable period of time to build out its project once approval has been granted, without having to be concerned with changes in zoning regulations. Therefore, it provides that the zoning requirements and all other rights conferred on the developer when approval is granted “shall not be changed for a period of two years after the date on which the resolution of final approval is adopted.” N.J.S.A. 40:55D-52.a. That statutory protection may be extended for extensions of one year, not to exceed three extensions in total. In a project with multiple phases, however, that provides a potential for only five years of statutory protection, and also requires that the applicant return to the Board for extensions year after year.

To avoid that and provide a reasonable period of statutory protection from zoning changes that is more in keeping with the size and duration of the project, the MLUL also provides that “[i]n the case of a site plan for a development consisting of not less than 150,000 square feet of nonresidential floor area or not less than 100 residential dwelling units” the Board may approve a statutory protective period “for such period of time beyond two years, as shall be determined by the [Board] to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) economic conditions, and (3) the comprehensiveness of the development.” N.J.S.A. 40:55D-52.e. The developer may apply thereafter for extensions which may be granted based on these considerations as well as the amount of the project remaining to be developed.

In view of these statutory factors, the nature of the project and the need for construction of each phase to proceed in a manner that allows for occupancy by existing residents, Daughters requests that the Board grant a statutory protective period whereby the rights conferred by N.J.S.A. 40:55D-52.a. would be for a duration of ten years in accordance with N.J.S.A. 40:55D-52.e.

Duration of Approval

Similarly, the Land Use Regulations of the Township of West Orange contain a provision which requires that in the case of a conditional use, variance, or final site plan, “the building or construction permit sought shall be secured and issued or the authorized action taken within two years and one day after the date of the granting of the conditional use, variance or site plan in question.” § 25-48.10.a. If the applicant does not comply with these time limits, which the Board may extend for good cause shown upon written application, “the approval shall be deemed null and void and of no further force or effect” and the applicant must then reapply for approval as if it were an initial application. § 25-48.10.a. To avoid the need for recurring extension requests where it is known that the project will not be completed in the initial two year period, the Board may initially fix a longer period of time for appropriate actions which are in excess of the minimum two years. § 25-48.10.e.

In view of these ordinance considerations, the nature of the project and the need for construction of each phase to proceed in a manner that allows for occupancy by existing residents, Daughters requests that the Board initially establish the period within which “the building or construction permit sought shall be secured and issued or the authorized action taken” in accordance with § 25-48.10.a., to be ten years after the date of the granting of the variance and site plan approval as authorized by § 25-48.10.e.