SAYREVILLE BOARD OF ADJUSTMENT

**MINUTES OF JANUARY 24, 2018**

**The regular meeting of the Board of Adjustment was called to order by Mr. Green, Chairman and opened with a salute to the flag. Mr. Green announced that the meeting was being conducted in accordance with the Sunshine Law.**

**Members of the Board of Adjustment present were: Mr. Green, Mr. Henry, Mr. Kuczynski, Ms. Catallo,**

**Mr. Corrigan, Mr. Emma, Mr. Esposito**

**Absent Members: Mr. Walsh**

**Also present were: Mr. Kemm, Attorney, Mr. Cornell, Engineer, Mrs. Gruel, Planner, and Mr. Barre, Planner**

**#16-13 Shri Bhaktinidhi 717 Washington Rd. Use Variance/Site Plan $ 3,000.00 App.**

**$12,000.00 Esc.**

**Before beginning applications, Mr. Kemm swore in the Board Professionals for the year 2018.**

**Mr. Kemm announced that the Temple would not be heard this evening and due to a lapse in time they will have to re-notice. They will be scheduled for a future meeting, which has not been determined as yet.**

**He further announced the following applications would not be heard this evening:**

**#17-13 – Interstate Outdoor Advertising, Route 9/Old Cheesequake Road**

**#17-15 - Interstate Outdoor Advertising, Route 35/Raritan Street**

**They may be heard at a special meeting on February 14, 2018 with no further notice.**

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**#17-29 Recovery Centers of America 901 Ernston Road Use Variance/Site Plan $1,000.00 App.**

**$2,500.00 Esc.**

**David Himelman, Esq. addressed the board stating that the professionals had asked for certain documentation which they have provided. He will summarize the testimony before opening to the public. Mr. Green indicated that the public portion will be heard first. Mr. Kemm asked Mr. Himelman to give a brief summary of the testimony for those not present at the last meeting.**

**Mr. Himelman thanked the board for hearing the testimony at several hearings on this application and he feels the board is very sensitive to the particular issue at hand which is substance abuse and treatment. This not a typical Land Use application and for several reasons. Testimony was heard from Dr. Parise it was explicit and direct testimony on the substance problem we all face in Middlesex County as well as across the State and the urgent need to provide critical treatment to individuals affected and he didn’t feel that any member of the board or public would dispute this. Even those from the public that have testified and objected on this application have acknowledged that there is a crisis in this Community, County, State, and the Nation. The applicant has made the point that there are laws in place both in State and Federal which require all of us to extend special consideration to this application. The term these laws use is “reasonable accommodations” and the applicant feels the board is required to approve the D1 Use Variance not that the applicant has met it’s burden but because State and Federal Laws require the approval of the Use Variance in this case as a “reasonable accommodation” under such law. Here since this applicant is willing and able to construct and operate this facility as opposed to another that does not currently exist to open the same type of facility at another location. Land Use Law requires that the law granting variance for a use the applicant must provide positive/negative criteria. A D1 Use is considered an inherently beneficial use and the site is particularly suited for the use and that the use advances one or more purposes of planning stated in the MLUL. Additionally, the testimony by the applicant’s planners James Higgins and Christine Cofone and also confirmed by the board’s planner has been set forth they have established the following:**

**RCA meets all the requirements of the D1 Positive/Negative and the proposed use is inherently beneficial as it is deemed to be a hospital as it is supervised by the NJ Department of Health. Both planners determined under the SICA the court set forth a 4 part balancing test in determining whether to grant the use variance: (1) identify the public interest at stake, (2) Identify the detrimental affect that will ensue from the granting of the variance, (3) In some situations the board may reduce the detrimental affect by imposing reasonable conditions on such use, (4) Weigh the public interest against the detrimental affects to determine whether the variance would cause such detriment. The epidemic in the County is of public interest and legislature finds and declares this a major health problem in the State, as presented by Dr. Parise. There is no negative factor to the public the applicant is proposing reasonable conditions and has addressed safety, out-patient, and staffing. Benefits outweigh the negative there is no dispute the use is inherently beneficial and patients are considered to be disabled and handicapped under law. Sayreville is obligated to provide reasonable accommodations to this use. The site is located in a Prime Zone, upon the original zoning application, Andy Mashanski, Zoning Officer denied the application stating it was not a permitted use. This site/use is in a Prime Zone not Residential and they have addressed all impacts. This is a national crisis and he cited a recent article in the NY Times referencing a young man with 6 overdoses and how help turned him around.**

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**Mr. Himelman stated he has been practicing for over 30 years and very few cases have touched him as this one has. This crisis is all over the country and the board has the opportunity to deal with it. This site was approved for a nursing home and they have demonstrated that this use is suited for the site. Based on it being an inherently beneficial use the board needs to approve the use and has an obligation by both the borough and board.**

**Mr. Green made motion to open public portion, Mr. Henry seconded, motion carried.**

**PUBLIC PORTION**

**Mr. Kemm swore in the following:**

**Robert Krzyzkowski – 26 Gillen Drive. Mr. Krzyzkowski stated he was speaking on behalf of many neighbors. He is not against treatment but it needs to be in a more appropriate place. Out patients will have access to the neighboring communities and he wondered about the staff and safety issues given to the board/borough. South Amboy has a methadone clinic away from the schools and residential areas and Sayreville should be the same and locate this facility in a different location. While this is a beneficial use, the nursing home should remain as Sayreville needs a nursing home facility. This is too close to the school and residential areas and proposes a different set of problems for the residents. Drug Free Zones are around the schools. This facility would present an easy walk to Eisenhower School along the walkway. If the applicant wants other areas, they could look at the old movie theatre which is vacant and not close to schools and/or residential areas. This approval is inappropriate and detrimental to the area, and the Board needs to take a stand for the residents who pay taxes. He is not being discriminating but asks that the Board think about the proximity and community.**

**Laurie Esposito – 24 Rubar Drive. Ms. Esposito said it is too close to Eisenhower School, she is very passionate about children and the care of seniors. This facility should be in a different area and keep the nursing home. There is a waiting list for the Venetian.**

**Ursula Jones – 16 Straton Court. Ms. Jones is a critical care nurse and emphasized that addiction comes with mental health. She has worked in facilities and the picture painted she has not seen. While this is needed it belongs elsewhere not in a populated residential area, there is gross understaffing at RCA. Approval would be putting the neighborhoods and children in danger.**

**Robert Platner – 68 Prusakowski Blvd. Mr. Platner thanked the last speaker and stated reasonable accommodations are required by law as well as reasonable effort. Substance abuse and mental health most people do not get. There is no accrediting association for drug rehabilitation and relapse rates are high.**

**Luan Muhammad – 101 Woodlake Drive. Mr. Muhammad said he is not sure about the application. He stated he is a new resident and works as a detective in a Major Crimes Unit and has also worked as an Undercover Narcotics Detective. He can’t predict the future but from personal experience is not sure about security. Patients will walk anywhere if they want and this will create problems. Dealers will come right to the center.**

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**Paula Gervasi – 4 Leshyk Court. Families see too many OD’s in cemeteries and the epidemic needs to stop. She is a single mother and does not want to see drugs in the Middle School. The elderly needs care and nursing home should remain. She does not want her daughter to be walking the dog and looking over her shoulder. This facility should be elsewhere.**

**Eugene Harris – 5 Biesada Ct. He is a former elementary principal. He has been shot at and physically taken down by a parent and involved in a lock down. He is from the LaMer complex. He said this disease does need help but as an educator the proximity is too close, protection needs to be provided to the children. There is enough realty in the borough, this is too close to the school. It is a good neighborhood and this will present a danger to the children. This is the wrong place/location.**

**Al Lambert – 63 Prusakowski Blvd. Mr. Lambert asked that there be no vote that the board needs to think first. Living near this type of facility is a serious issue. The public felt and was under the impression this would still be a nursing home. The public was duped as this was the plan from the beginning. This application is wrong for the area drugs bring crime.**

**Carmen Campbell – 1306 Harbour Club Drive. Ms. Campbell says she works at United Nations in New York and gets the bus across the street which was supposed to be a nursing home. She is a single mother and bought in Sayreville because it was a nice community. This should be put out by the old theatre, not the LaMer building or other residential communities. Please consider the residents and how they pay taxes.**

**Scott Tabacco – 98 Woodmere Drive. Security failed to mention treatment industry is self-regulated according to articles he downloaded. Across from Harbour Club, LaMer and an Elementary School where this is a Drug Free Zone. The board needs to think about this.**

**David Barr – 115 Prusakowski Blvd. He recently moved from New York and is a retired Police Sergeant for extra police patrols. He referenced coverage on an article from 2017 in the Boston Globe regarding RCA facilities in Massachusetts and how the staff couldn’t keep patients safe---what about residents?**

**Ruthann Mahoney – 2 Gerard Place. Does not live near area but has a concern about the school zone and it being Drug Free. The nursing home proposed would be fine. Children are nieve and can get hooked on drugs, this gives them more access. While this facility may be needed it does not belong in a school zone. And the police department there are not enough police as it is this will require more. Please think of children and keeping them safe. Find another place for this facility.**

**Christopher Hunter – 6 Fela Drive. He has lived in the community for 21 years and the community has changed and grown from 1500 units to an expansion of more. His 3 children attended Eisenhower School and moving to Sayreville was the best thing he has done.**

**Al Pillar – 251 Morgan Ave. He stated his family has been in Sayreville for 104 years. He has watched 2 massage parlors and an adult book store come to be. His grandmother was in nursing home which has taken a long time to rebuild. An addiction facility apparently was a done deal. Absolutely insane.**

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**John Bartlinski – 5 Grand Street. Mr. Bartlinski has lived here for 56 years and raised his family here. He is very proud of the town. While addiction is running wild and requires reasonable accommodations; this is an unreasonable location. The South Amboy location is on the site of the California Hotel on lower Main St. Sayreville needs to do the right thing. While the clinic is needed the location is not conducive near the school. Sickness understands where this is a will there is a way. This corporation has a less than stellar track record, O’Neill properties is involved and this approval should be for a nursing home. With a 4.1 margin of addicts, seniors need more. Most importantly, with recovery comes change of scenery. Yes it’s needed but do the right thing. This is a big mistake put through as a nursing home.**

**George Podolak - 48 Scott Ave. Mr. Podolak stated he is 76 yrs. old and lives in the Melrose section. The Venetian has a waiting list and this needs to remain a nursing home for the elderly in town.**

**Gary Szareta – 55 Fielek Terrace. Mr. Szareta lives behind Eisenhower School. He stated there is a need for the nursing home in Sayreville and this need will get more. He stated how the children in Eisenhower School would visit the nursing home and entertain the elderly. He described an article in the Boston Globe and how it ended that this was sold as a community based center and they pray on the vulnerable people.**

**Mrs. Patel – Mrs. Patel stated that the residents did a fantastic job. She has two young daughters and her 11 year old asked what a drug rehab center was. While there is a need for it not at this location. Speaking as a resident and tax payer it needs to be elsewhere.**

**Michael Murray – 69 Buchanan Ave. He has lived in Sayreville for 42 years, came from New York. His children attended the schools and both still live in Sayreville. While there is a war on drugs this location is in a residential area and he wants to see children and his grandchildren safe. The location needs to be changed.**

**Francesca Gercaie – Rehab center next to a school is scary. Help is needed but in another location. People will be scared to walk dogs or go to park.**

**Maderia Ismail – This is too scary for children walking from school and bus stops.**

**Geraldine Bennington – 3 Sandcastle Road. Dangerous facility. Police will pay due to crimes and home break-ins. Home values will drop. People know it’s needed but in another area. This will only add crime to these residential areas. The elderly needs a place to go—keep it a nursing home—have a conscience.**

**Paul Lieberman – 24 Wlodarczyk Pl. This is not the place for this facility. Find another area.**

**Lisa Rom – 121 LaMer Drive. She is from New York and is upset and disgusted; her mother was in the nursing home and her father will be needing to go. While she has sympathy for people she is urging the Board to do the right thing.**

**Renee’ Quackenbush – 87 Harding Ave. She supports the issue and is compassionate, but this is the wrong location and a facility is needed for seniors.**

**Lorraine Vaglio – 123 Woodmere Drive. She is a registered nurse and is fully aware and respectful for the need. She has concerns for the safety within the residential areas and asked that the board do not approve.**

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**Kathleen Barlotti – 2502 Ridgeview Ct. Has lived in Sayreville for 21 years originally from Brooklyn. She has concerns and is still paying mortgage, this location is too close to the schools. Sayreville has put more into the schools to educate. Do not approve RCA should put resources elsewhere.**

**Lenore Lambert – 63 Prusakowski Blvd. She has lived here for 5 years and has a 25 year old autistic daughter who walks around the area and feels this is a safety issue. She works in a high school and understands that children have needs. The nursing home needs to stay.**

**Linda Barkins – 56 Fela Drive. She visited the nursing home and the community needs the nursing home. This is not the location for this facility, it is not conducive and too close to the school. LaMer is an open community and people can walk through and if they have a need they will fill it.**

**Alahana Bustos – 61 Nathan Blvd. He moved from Massachusetts to Sayreville. This facility is not appropriate a nursing home is needed.**

**Mary Cibelli – 119 Prusakowski Blvd. From Staten Island moved to Sayreville to be near daughter and was so happy to hear there was a nursing home. Listen to the public a nursing home is needed.**

**Heran Torres – 6405 Fernandez Ct. Has lived in Sayreville for one year. He moved here from Elizabeth to give his sons a better life. He doesn’t worry about his sons going to the basketball court or children getting off the bus. A Rehab Center does not belong here. Please consider the children and the needs of the elderly.**

**Katrina Arboleda – 2008 Bayhead Dr. Against the facility and the safety of the children in Eisenhower and Middle School needs to be taken into consideration.**

**Jack Coveney – 44 Straton Court. This is too close to the school and he asks that the board vote the right way.**

**Leonardo Copugo – 1 Sandpiper Drive. Moved from Queens, too close to Eisenhower School.**

**Tanu Gupta – 9 Pyanowski Court. This is a safe community for everyone. A Rehab center does not belong in this location. He believes in Karma.**

**Daphne Stanley – 20 Woodmere Drive. Against the Center proposed.**

**Juan Correa – 20 Upperbrook Ct. Against the Center and does not want.**

**Kevin Reid – 904 Giordano Ave. From Roselle, moved to Parlin for safety, facility is too close to school and is unacceptable, it is unsafe. He works in the city where safety is paramount. Consider another location.**

**Mrs. Reid – 904 Giordano Ave. They are a working class family in a residential area. She has concerns about the facility too close to the school.**

**Carol Gitume – 22 Marcinczyk Place. Provide a good safe home for the residents, make a fair and right decision. This is a residential area.**

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**Aaron Anderson – 83 Giera Court. Working families and children go to Eisenhower School. They worry about children. This should not be near the school but in another location.**

**Daniel Astarita – 26 Reseau Ave. He is against the facility. Has a daughter in Eisenhower School and another will be attending.**

**Inelda Garcia – 126 Woodmere Drive. Has lived here for 12 years and her children all go to Sayreville schools and now grandchildren, she wants safety for the children and community.**

**Barbara Shanley – 21 Woodmere Drive. Has been living here for 21 years and worked part time on Ernston Road. This should remain a nursing home.**

**Bill Policastro – 22 Dolan Ave. He lost both his mother and sibling to drug use and understands the need but not there. He works for NJ Transit and his wife is home alone and that is a concern.**

**George Nagy – 118 Parker St. He has two children in Eisenhower. His daughter is scared about facility. He knows the help is needed but not there. It should remain a nursing home.**

**Shafqat Mahmood – 4 Giera Court. He is against the facility.**

**Dawn Dantzler – Residential area, she feels very safe outside with this facility she will not feel safe.**

**Paulene Kuria – 42 Woodmere Drive. She is against the facility.**

**Arnold McCormick – 116 Prusakowski Blvd. Site was approved as a nursing home, seniors have rights too.**

**Johnny Robinson – Against facility. Moved from the Bronx and loves the town. Yes help is needed but not next to a school or residential area. Do the best thing for the community.**

**Mr. Daniels – Against facility in this location. Lost son four years ago.**

**Stephanie Taite – 24 Fela Drive. Against facility.**

**Mr. Khatri – Do not approve**

**Pradyuman Jhala – 7 Jason Court. Against facility**

**Debbie Indrawis – 6 Tall Oaks Court. Against facility and if anyone would want to sell their homes a realtor would have to disclose.**

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**Mr. Green asked for motion to close public portion. Mr. Henry made motion to close public portion; Mr. Emma seconded, motion carried.**

**Mr. Himelman addressed the board stating they have listened to all comments and he has summarized the case leaving it up to the Board. Mr. Green stated the Board would be going into Closed Session to discuss the ADA Federal Fair Housing.**

**10:25 PM**

**Mr. Green asked for motion to go into Closed Session. Mr. Henry made motion; Mr. Emma seconded, motion carried.**

**Mr. Esposito asked if the Board would be taking a final vote; Mr. Kemm said they would be going into Closed Session and the meeting was not over. They would sum up the meeting after closed.**

**10:50 PM**

**The meeting was called back to order. Mr. Kemm stated the meeting was not back in public session and discussed that the ADA requirements are correct and Federal Fair Housing.**

**Mr. Green asked for motion to approve/deny this application. Mr. Henry made motion to deny the application, Mr. Emma seconded. Roll Call:**

**Yes: Mr. Green, Mr. Henry, Mr. Kuczynski, Ms. Catallo, Mr. Corrigan, Mr. Emma, Mr. Esposito**

**Mr. Green then addressed the applicant stating he would like for all the board members to briefly give their reasons for denial.**

**Ron Green - Thanked Dave Himelman and stated he reviewed all testimony for hours and has been to the scene and resident’s safety far outweighs other issues. From testimony on 11/8/17 he addressed Page 87 stating that 150-200 cameras and nurses will have visibility. This is only as good as the staff. He was a police officer for 35 years and has experience that cameras could be all over but if you are busy you don’t see everything. Security could be compromised when an RCA employee could be doing a report and not see. Safety in and out on Page 79 outpatient vs. inpatient. The criteria comes from RCA saying they play a large part to where they go. On 12/13/17 Page 35 Drug addicts are smart and desperate which creates a safety issue for the facility and RCA is reviewed by Joint Commission of Hospitals only once a year to set policies. On 12/13/17 testimony Page 6 Davers, Massachusetts in 2/17 and 8/17 there were two deaths, an investigation took place and upon reading and receiving RCA did not have proper and complete control. With RCA regards to safety; was not adhered to in Massachusetts but will be in Sayreville? How will he know? Credibility is relevant as this is close to a school and residential safety could be compromised and I am not willing to take that chance. Testimony provided no documentation at night regarding 1 RN and staffing for 149 beds. While the board is not against RCA and the need in NJ and US this facility is too close to residential and school. There are other areas in Sayreville and Brian O’Neill knows Sayreville well and can find another area.**

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**William Henry, Vice Chairman – Agrees with Chairman Ron Green and also has additional police concerns as well as concern for the residents.**

**Anthony Esposito – While there is a need for a facility like RCA as a Board of Education member it is too close to a school and could create ramifications, as well as a financial issue to the homeowners and not entirely safe. RCA only has 1 unarmed security guard. They said they wouldn’t increase they would make sure it was $750/day for 150 beds—home values in the area will be reduced by 17% and from a personal level he couldn’t look at friends. The facility is needed by not there.**

**Phil Emma – Members already covered public safety concerns, school and residential areas. All you would need is one incident. That is why I voted against.**

**Tom Kuczynski – Making a decision on facts. Thinks the board made the right decision, they touched on both sides. We deal with facts and law and takes SICA very seriously. This is the wrong location, too close to a school. Police stated it draws an element near facility that could ruin the area. Yes it is a Prime Zone and more than one zone but this can’t change things there are other places more suitable.**

**Maria Catallo – Believes there is a big problem with drugs and something is needed but we also need to protect the children in the area they are innocent.**

**John Corrigan – Concerned listening to community we need to protect the children and elderly I could not destroy the quality of life.**

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**#17-33 Verizon Wireless 2 Gowin Street Use Variance/Minor Site Plan $1,250.00 App.**

**$3,240.00 Esc.**

**Warren Stillwall, Cooper Levinson, attorney for the applicant addressed the board stating this was a D2 Expansion of a Non-Conforming Use and Site Plan for placing antennas on an existing tower. They provided notice to the newspaper and property owners.**

**Mr. Kemm stated he reviewed the affidavit of publication and proof of public service and the Board had jurisdiction to hear the application.**

**Verizon Wireless is currently a tenant on the tower located at Raritan Street and are moving from that tower to the tower on Gowin Street.**

**Mr. Kemm swore in Gary Hartman, Radio Frequency Engineer. He presented Exhibit A1 and provided copies to the board members. The exhibit shows the coverage on both the sites. Verizon failed to come to agreement with the landlord of the Raritan Street tower so they are moving to the Gowin Street tower. The proposed site alleviates a coverage gap as this covers a significant portion of the Borough of Sayreville. The equipment will be in an existing shelter at the site.**

**Mr. Kemm swore in Gary Sorkin, Engineer. Mr. Sorkin presented Exhibit A2 dated 12/13/17 describing the cell tower and the area it’s housed in, as well as, surrounding property. Verizon will co-locate additional antennas on the tower, adding some equipment and an empty area will house their equipment. The generator they will operate under DEP requirements and will be visited once every six weeks.**

**He addressed the CME Report and four (4) issues regarding equipment which will be inside the shelter, the generator will be to the west, and the waiver for the lighting plan as they will be using the existing lighting. Referencing landscaping there is no location as the site is asphalt, there is ample parking for one technician who will visit site every 6 weeks and can park through the gates. Mr. Cornell asked about the County Planning Board approval; Mr. Sorkin said they have not received a response yet but will comply. Mr. Cornell said he had no problem with the waiver request.**

**Mr. Kemm swore in William F. Masters, Professional Planner. Mr. Masters stated the applicant is seeking approval for a D2 Use Variance for expansion of an existing non-conforming use and the applicant does satisfy both the positive and negative criteria. The positive is the site suits the application and is ideally situated. It is a 166’ tall lattice tower that the applicant will be co-locating to. It is located in a non-residential zone/business zone. There is no visual impact and Exhibit A3 is a prepared photo simulation taken on 5/19/17 of the existing site.**

**Mr. Green made motion to open public portion. No one spoke. Mr. Green asked for motion to close public portion; Mr. Kuczynski made motion to close public portion, Mr. Henry seconded, motion carried.**

**Mr. Green asked for motion to approve/deny this application. Mr. Henry made motion to approve the application, Mr. Emma seconded. Roll Call:**

**Yes: Mr. Green, Mr. Kuczynski, Ms. Catallo, Mr. Corrigan, Mr. Henry, Mr. Emma, Mr. Esposito**

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**MEMORIALIZATION OF RESOLUTIONS**

**NONE**

**ACCEPTANCE OF MINUTES**

# Mr. Green asked for motion to approve and accept the minutes of the December 13, 2017 meeting.

# Mr. Corrigan made motion to accept the minutes, Mr. Kuczynski seconded, motion carried.

**ADJOURNMENT**

**There being no further business to discuss, Mr. Green asked for motion to adjourn, Mr. Corrigan made motion to adjourn; Mr. Henry seconded, motion carried.**

**Respectfully submitted,**

**Joan M. Kemble**