SAYREVILLE BOARD OF ADJUSTMENT

**MINUTES OF SEPTEMBER 27, 2017**

**The regular meeting of the Board of Adjustment was called to order by Mr. Green, Vice 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. Kuczynski, Mr. Kreismer, Ms. Catallo,**

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

**Absent Members: Mr. Walsh**

**Also present were: Mr. Sachs, Attorney, Mr. Cornell, Engineer and Mr. Leoncavallo, Planner**

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

 **$12,000.00 Esc.**

**Mr. Sachs made announcement that he received a letter from the Temple attorney on September 26th requesting that this application be held over until the October 25, 2017 Zoning Board Meeting. Mr. Sachs stated that there would be no further notice to the public.**

**Mr. Sachs then announced that the two applications for Interstate Outdoor Advertising (App. #s 17-13 and 17-15) will also be held over until the October 25, 2017 Zoning Board meeting at the request of the attorney without further notice.**

**#17-17 Darren Dzamba 1 Deerfield Rd. Bulk Variance/Garage $ 50.00 App.**

**Mr. Sachs stated he reviewed the affidavit of publication and proof of public service and the Board had jurisdiction to hear the application. Mr. Green asked for motion to deem the application complete,**

**Mr. Green made motion; Mr. Kreismer seconded, motion carried.**

**Mr. Sachs swore in Darren Dzamba who stated that he was looking to construct a shed which will not be within 10’**

**Mr. Henry asked if it would be used as a garage; the applicant stated it was to store a classic car. He said it would be an Amish wooden structure that has the appearance of a garage and if necessary can be moved. Mr. Sachs asked what the height would be and if there would be any plumbing or electric, the applicant said 14’ high, no plumbing but possibly electric in the future. He said it would not be used for residential just storage and that he has an e-mail regarding the sewer easement. Mr. Kuczynski asked if it would be finished like the house, the applicant said “yes.” Mr. Leoncavallo stated the following variances:**

* **Accessory structure exceeds 100 sq. ft.; the applicant is proposing 264 sq. ft.**

**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. Corrigan seconded, motion carried.**

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

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

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**#17-18 Katherine Cabantan 1 Downs Dr. Bulk Variance/Pool $ 100.00 App.**

**Mr. Sachs stated he reviewed the affidavit of publication and proof of public service and the Board had jurisdiction to hear the application. Mr. Green asked for motion to deem the application complete,**

**Mr. Kreismer made motion; Mr. Henry seconded, motion carried.**

**Mr. Sachs swore in Katherine Cabantan who stated she was requesting a variance for a pool on the side yard as she has no space in her rear yard. Mr. Leoncavallo stated the following variances:**

* **Encroaches the principle structure 10’ minimum the applicant is proposing 4’**
* **Not in rear yard**

**Mr. Kuczynski asked a bulk variance on the side yard was permitted; Mr. Leoncavallo said “yes.” Mr. Kuczynski asked if there was a fence along the side; the applicant said “yes.” Mr. Henry asked how close to the house on the side the pool would be; the applicant said about 10’ on the side and rear property. Mr. Kuczynski asked why 10’ was the requirement, Mr. Leoncavallo said according to the last ordinance the approval has always been 10.’ Mr. Esposito this might be a safety issue with the fence at 10’; Mr. Sachs asked if there were pavers the applicant said “yes.”**

**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. Corrigan seconded, motion carried.**

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

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

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**#17-19 Dave/Camille Sivilli 37 Marcia St. Bulk Variance/Addition $100.00 App.**

**Mr. Sachs stated he reviewed the affidavit of publication and proof of public service and the Board had jurisdiction to hear the application. Mr. Green asked for motion to deem the application complete,**

**Mr. Kreismer made motion; Mr. Corrigan seconded, motion carried.**

**Mr. Sachs swore in Camille Sivilli who stated they were seeking approval to add an additional 13’ x 26’ garage which will convert a one car garage into a two car garage to house her husband’s classic car. Mr. Leoncavallo stated the following variances:**

* **13’ x 26’ garage encroaches on the side yard minimum allowed 10’ they are proposing 5’**
* **Addition lot coverage 20% maximum they are proposing 22%**

**Mr. Sachs asked if the garage would be used for any commercial use; the applicant said it would just be used for cars and there will be no plumbing.**

**Mr. Kuczynski asked if they would be addition a driveway; the applicant said the driveway is already there.**

**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 with the, Mr. Kreismer seconded. Roll Call:**

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

**Mr. Sachs stated that he has prepared the Resolution for this application as it was on the agenda in September and was not heard. Mr. Green asked for motion to memorialize the resolution prepared; Mr. Kreismer made motion; Mr. Emma seconded. Roll Call:**

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

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**#17-20 Daniel/Kristi Petras 366 Lorraine Ave. Bulk Variance/Fence $ 50.00 App.**

**Mr. Sachs stated he reviewed the affidavit of publication and proof of public service and the Board had jurisdiction to hear the application. Mr. Green asked for motion to deem the application complete,**

**Mr. Kreismer made motion; Mr. Corrigan seconded, motion carried.**

**Mr. Sachs swore in Kristi Petras who stated they are on a corner lot and want to replace a 4’ chain link fence with a 6’ vinyl fence. Mr. Leoncavallo stated the following variance:**

* **Proposed fence encroaches front yard setback the minimum is 10’ they are proposing 3’ in an R7 zone.**

**Mr. Green asked the applicant if they will be replacing in the same location; the applicant said “yes.”**

**Mr. Kuczynski said the fence needs to be 10’ from the house and they are proposing 7 ½ and if they following the ordinance the fence would be in the house. The applicant said the gate will also be replaced.**

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

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

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

**Mr. Sachs stated that he also has prepared the Resolution for this application as it was on the agenda in September and was not heard. Mr. Green asked for motion to memorialize the resolution prepared; Mr. Kreismer made motion; Mr. Corrigan seconded. Roll Call:**

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

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**#17-21 Recovery Centers of America 901 Ernston Rd. Appeal $250.00 App.**

 **$1,000.00 Esc.**

**Mr. Sachs addressed the applicant/appeal stating that according to the Municipal Land Use Law statute gives powers to the Zoning Board to hear appeals of the Zoning Officer. Mr. Mashanski, Zoning Officer made a determination that this was not a permitted use and will discuss his decision. The applicant will make their presentation on the appeal.**

**David Himelman, attorney for the applicant addressed the denial stating that the applicant feels it was an error. He has several witnesses including the owner. RCA has leased the property at 901 Ernston Road. He then described the current approvals for Briarwood and the lease agreement and the denial stating it was not a permitted use in the Prime Zone and provide testimony identifying the use. He then described the RCA services as a 24 hour care facility. They will not be making any modifications to the already approved facility by the Planning Board. For the record, Mr. Sachs addressed the board stating that Mr. Himelman was not testifying as a witness but for educational purposes only.**

**David Himelman addressed the board on the application describing it as a long term nursing home with Planning Board approval to rebuild long term nursing care; the proposed is a different type of use with some similarities. Briarwood is a long term nursing home with 24/7 facility for the elderly; or older adults who need help. There is no definition of the proposed use it would be up to the board to decide if the same. Mr. Henry asked about the ages? Mr. Sachs stated the Zoning Officer was no unreasonable it is the decision of the board as to whether it’s the same use or a different use.**

**Mr. Sachs swore in David Dorschu, CEO, RCA Facility in Mays Landing, NJ “Lighthouse.” Mr. Dorschu described the different clinical levels to the board and the in-patient, out-patient care provided by the facility. He presented and handed out to the board members Exhibit A-1 Rehabilitation Services showing the comparison for the prior approved use and RCA use. He stated RCA has nursing care RN and LPN 24 hours/day as he described the services they provide. He checked the Sayreville Ordinance and the services/staffing/hours of operation are very consistent with the approved use. He stated that the patients are protected under the ADA. They are proposing 149 beds and number of patients 134-135. The care rendered when admitted is based on the assessment for the clinical admission. Detox lasts approximately 7 days with group sessions as well as educational sessions with therapy. He gave an overview of the family services prior to discharge set up of out-patient care as well as living services. He described their services exceeding the State regulations and that all therapists are licensed by the State.**

**RCA operates with 3 difference licenses by the State: Long-term rehabilitation, Detox, Partial care and is inspected annually. Proposed use is 85% residential with 15% out-patient. Family visits are on Saturday and Sunday. RCA admits 24/7, they take security very seriously and there are cameras throughout the facility. The average length of stay is 17 days. He stated the OD rate of NJ is 3 times higher than the national average. There are 215 employees with three shifts 7AM-3PM, 3PM-11PM, 11PM-7AM.**

**Mr. Sachs asked about the comparison chart he stated there are no out-patient services at Briarwood it was a long-term care facility as well as provides oncology care nurse, and orthopedic care. Mr. Dorschu stated the out-patient is about 15% treated on a daily basis with partial care 5 days per week. Mr. Green asked if there would be any care for teenagers; Mr. Dorschu stated care was administered to those 18 years or older. Mr. Green asked if patients could leave at any time; Mr. Dorschu said it was voluntary. Mr. Henry asked about parking and if the guidelines were within code. Mr. Himelman said the original application by Briarwood involved parking and would be addressed with their use variance.**

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**Mr. Esposito asked if the Mays Landing facility was the same size as this one being proposed; Mr. Dorschu said it was not as big and indicated that RCA also provides transportation favorable to parking. Mr. Kuczynski asked about the family services offered; Mr. Dorschu said they take place every Saturday and Sunday and they are regularly scheduled for 1 ½ hours. Mr. Henry asked about pain management treatment and heroin addiction as a result of pain injuries after prescriptions run out. Mr. Dorschu said they are seeing more and more addiction situations such as these. Ms. Catallo asked about the 24/7 operation and asked if the door was locked and if there was any security officers. Mr. Dorschu said the doors are locked at 9PM; however, someone can walk out. Mr. Esposito asked if this occurs are police notified; they only alert police if they feel the client is in danger. Mr. Kreismer asked what would happen and what was the protocol in this situation; Mr. Dorschu said they would refer to other medical facility. Mr. Emma asked for clarification on what was being presented. Mr. Sachs stated they needed to decide if Andy Mashanski, Zoning Officer’s decision was correct. Dave Himelman said they are relying on the definition of “long-term.”**

**9:35 PM – Mr. Green asked for a 10 minute break**

**9:45 PM – All board members returned to meeting**

**Mr. Sachs stated he had conversation with the applicant on the break and suggested they go forward with a Use Variance/Site Plan and defer any decision on the Appeal. He felt this would be more prudent. He said the applicant will notice for the October 25th meeting and if necessary it could be carried over to the November meeting. Mr. Himelman agreed with the request and said they would proceed with the Use Variance and if approved the Appeal would be mute. Mr. Henry asked about the appeal; Mr. Sachs stated they were asking for no action on the appeal and if the Use Variance is granted they would withdraw the appeal. Mr. Kuczynski asked about timeframe; the appeal is 45 days and should they be asking for continuance on the appeal. Mr. Sachs said first they will go forward with the Use Variance. Mr. Himelman indicated they are under a time constraint and asked if necessary would the board consider a special meeting. Mr. Sachs said it would be reviewed if necessary.**

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**#17-25 Jolene Cappadona 27 Marshall Pl. Bulk Variance/Addition $ 150.00 App.**

**Mr. Sachs stated he reviewed the affidavit of publication and proof of public service and the Board had jurisdiction to hear the application. Mr. Green asked for motion to deem the application complete,**

**Mr. Kreismer made motion; Mr. Henry seconded, motion carried.**

**Mr. Sachs swore in Jolene Cappadona who stated she was seeking variance approval to make the front 5’ wider and wants to square off the front of the house. She is in the process of an entire whole house renovation of a 100’ addition on 1st floor and on the 2nd floor has 3 bedrooms, a bath and walk up attic.**

**Mr. Leoncavallo stated the following variances for the R5 Zone:**

* **Front yard 20% setback the applicant is proposing 25%**
* **Lot impervious coverage 45% maximum the applicant is proposing 47%**
* **2 ½ story house the applicant is proposing 3 stories**

**Mr. Sachs asked if the attic would be used as a bedroom; the applicant stated it would be used for a small office. Mr. Sachs asked if there would be one kitchen and would the house remain as a single family, the applicant said “yes.” She stated there would be two doors one in the front and one on the side of the house and only one staircase. Mr. Kuczynski asked if they would be adding on the left of the house; the applicant said “yes.” Mr. Kuczynski asked if it would be any larger; the applicant said “no” it would still be 100 sq. ft. and it would not be any larger. Mr. Kuczynski asked what the height would be; the applicant said 29.’ Mr. Sachs asked if there would be ingress and egress windows in the attic, the applicant said “yes.”**

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

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

**Yes: Mr. Green, Mr. Kuczynski, Mr. Kreismer, 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 July 26, 2017 and August 23, 2017 meetings. Mr. Kuczynski made motion to accept the minutes, Mr. Kreismer seconded, motion carried.

**ADJOURNMENT**

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

 **Respectfully submitted,**

 **Joan M. Kemble**