

**Minutes of the
Unified Planning/Zoning Board of Adjustment
July 1, 2013
7:00 PM**

A regular meeting of the Unified Planning/Zoning Board of Adjustment of the Borough of Matawan, New Jersey, was held at the Matawan Municipal Community Center, 201 Broad Street, Matawan, New Jersey on July 1, 2013. The meeting was called to order at 7:03 PM by Chairman Kenneth Cassidy presiding. Chairman Cassidy called the meeting to order, pursuant to Section 5 of the Open Public Meetings Act that adequate notice of this meeting has been provided in the notice which was published in the *Asbury Park Press* on January 17, 2013, by sending notice to *The Independent*, and by posting.

Chairman Cassidy requested everyone to stand for the Salute to the Flag.

Chairman Cassidy requested a roll call.

On roll call the following members responded present:

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
No: Robert Montfort
Yes: Joseph Saporito
No: Joseph Urciuoli
No: Rochelle Malanga
Yes: Andrew Lopez
Yes: Daniel Acquafredda

Also present were Michael A. Irene Jr., Esq., Planning Zoning Board Attorney and Phil Haderer, Planning Zoning Board Engineer.

Approval of Minutes

Chairman Cassidy requested a motion to approve the minutes of the June 3, 2013 meeting. Mr. Acquafredda made the motion, seconded by Mr. Saporito. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Joseph Saporito

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Yes Andrew Lopez
Yes: Daniel Acquafredda

Motion approved

Applicants:

1. Laurdan Realty, LLC – Main & Broad Streets – Block 50, Lot 16 (*Site Plan Application*)
2. 762 Highway 34, LLC – Block 113, Lot 1.05 (*Site Plan Application*)
3. Janice Peterson – 75 Main Street – Block 8, Lot 8 (*Variance*)

Laurdan Realty, LLC

Mr. Irene stated that this was a continuance without necessity of re-notice from the June 3, 2013 meeting.

Mr. Salvatore Alfieri, Attorney for Laurdan Realty, LLC started by saying that final site approval had been held over to tonight in order for Mr. Haderer to have an opportunity to review the plans. In addition, they were seeking relief from the Board as Mr. Metz was having trouble obtaining the deed.

Mr. Metz was reminded he was still under oath. He offered the *Developers Agreement* and or a copy of the *Resolution* as alternatives to the deed.

Mr. Irene stated that he was concerned that neither of these documents will suffice.

He repetitively questioned Mr. Metz as to what problem the lender had with the *Deed Restriction*.

The only answer Mr. Metz was able to give was that most lenders have a problem with *Deed Restriction* as they will hinder future sales.

Mr. Irene disagreed and advised the Board of his concerns. The question of whether the *Deed Restriction* will show up in a Title search.

Mr. Buccellato commented that the Planning Board deemed the restriction appropriate at the time this matter originally came before the Board in 2010.

Mr. Cassidy asked if there were any questions from the Board or the Public-none.

Chairman Cassidy requested a motion. Mr. Fitzsimmons made a motion to not alter the Deed Restriction requirement, seconded by Mr. Lopez. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler

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No: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
No: John McKenna
Yes: Joseph Saporito
Yes: Andrew Lopez
Yes: Daniel Acquafredda
Motion approved

Mr. Haderer was sworn in and stated that since the last meeting, he had an opportunity to review the plans and had met with Mr. Sam Chung and all the issues in question had been addressed.

Laurdan was to submit a revised lighting plan and that will be a condition of final site approval.

Chairman Cassidy requested a motion. Mr. Fitzsimmons made a motion to grant final site approval subject to the conditions of the lighting as well as outside agency approvals and waivers. Mr. Buccellato seconded. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Joseph Saporito
Yes: Andrew Lopez
Yes: Daniel Acquafredda
Motion approved

762 Highway 34, LLC

Mr. Salvatore Alfieri, Attorney for 762 Highway 34 DaVita Dialysis, LLC, came before the Board to submit a new or amended site plan. The owners of the property proposed a medical building in place of the originally proposed bank.

Mr. Irene asked if there were any problems regarding the notice of the applicant. None
Mr. Alfieri introduced the client, DaVita Dialysis, represented by Michael King, Regional Operations Director. Mr. King was sworn in and his credentials were accepted.

Mr. Irene informed the applicant that he had dealings with DaVita Dialysis and wanted to

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make full disclosure. The applicant stated that he had no problem with that.

Mr. King told the Board that there were over 2000 DaVita Dialysis centers in the country with thirty seven of them in New Jersey; he personally was responsible for seventeen of those thirty seven.

He is proposing a new center at 762 Highway 34. The center is licensed by Medicare and The NJ Department of Health regulates them and makes regular inspections. There is a Medical Director on site. They propose to be opened from 6:00am-6:00pm, with extended hours if needed. Each shift is four hours and there are ten employees per shift during peak hours.

There is one exam room where eighteen patients can be treated at one time. Curtains partition each patient and each treatment is approximately four hours long. The patients are scheduled about ten to fifteen minutes apart for staggering purposes.

Most of the patients will arrive by ambulance or ambulette.

Regarding the waste; Mr. King explained that there is a large amount of water which goes down a drain and there is a medical waste room for blood etc. This is picked up by a State approved business.

Mr. Charles Surmonte, a Professional Engineer & Land Surveyor from Allenhurst, NJ was sworn in and his credentials were accepted.

He explained that the originally proposed bank was a two-story structure with a drive-up window on 4000 square feet. The Medical building is larger; however the area remains the same. The access will not change and it will conform to the rear set-back which is thirty feet.

Drop off will be in the front of the building. There will be five extra spaces from the area that was to be a drive-up. There will be a total of forty three spaces for this building with a total of eighty two spaces for the entire lot. Eighty three spaces are required.

Mr. Surmonte believes four handicapped spaces to be sufficient, stating that that would be in compliance with the ADA.

Mr. Haderer said the ADA requires twenty percent of mobile medical facilities. Mr. Alfieri agreed to comply with that.

Mr. Acquafredda wanted to know if the handicapped spaces were included in the total number.

Mr. King said that Medicare would not give approval if the State did not approve first.

Mr. Irene did not feel that there would be enough room and Mr. Surmonte said they would move the handicapped spaces to the other side of the building. Seventy four spaces would be the worst case scenario.

Mr. Cassidy asked if there were any questioned from the Board or the Public.

Mrs. Barbara Wolf, Elm Place, Matawan came forward and was sworn in.

She asked how many stories the center would be and what the hours of operation were. She was told one story and 6:00am-6:00pm. Because it is a Permitted Use, there would be no limitations on the hours. Mrs. Wolf asked if they expected completion from the dialysis

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center down the road. Mr. King said that facility was an on-site facility only for the patients who live in the rehabilitation center. This center has no overnight patients. He also stated that there is an existing drainage system.

Mr. Haderer said there needed to be a resolution asking for revised plans. This should have been a demolition plan and then a revised plan.

Mr. Surmonte said there will be pole mounted light on the southern side of the building. One exit door on the western side will have an overhead light.

Mr. Irene asked about a generator and Mr. Alfieri said the location of the HAVAC system must be addressed.

Mr. Haderer asked how often the generator needs to be tested.

Mr. Surmonte said they use diesel fuel as it is uninterrupted.

Mr. Buccellato wanted to know if this tenant would occupy the entire 8500 square feet and was told yes. He also asked when deliveries were made. Mr. King said they were made during working hours by nothing larger than a box truck.

Mr. Buccellato then asked if there would be only one refuge site and if there was indoor refrigeration.

Mr. Surmonte said one refuge site for each facility and the only refrigeration was for personal food use.

Mr. Acquafredda said: "With all due respect, we need new plans."

Mr. Mark Wolf, Elm Place, Matawan came forward and was sworn in. He asked if there was some type of sound proofing for the generator. Mr. Alfieri answered yes and also that the dumpster location would not be changing.

Mr. Cassidy asked if there were any other questions from the board or the Public. There were none.

Mr. Alfieri questioned how the application fees were to be handled. Mr. Haderer said the fees were set on square footage. Mr. Alfieri said there was no specification as to whether this was new construction existing construction. He was told that would have to be discussed at the next Council meeting.

Chairman Cassidy requested a motion to carry the application to the August 5, 2013 meeting without necessity of re-notice and with stipulation of revised plans. Mr. Fitzsimmons made the motion, seconded by Mr. Butler. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Joseph Saporito

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Yes Andrew Lopez
Yes: Daniel Acquafredda
Motion approved

Janice Peterson – 75 Main Street

Mr. Buccellato and Mr. Fitzsimmons recused themselves.
Mr. Irene asked if there were any problems with notification, there were not.

Mrs. Janice Peterson, 2 Brush Neck Road, Marlboro, NJ was sworn in.
Mr. Haderer was sworn in.

Mrs. Peterson came before the Board to request a variance to convert her retail space at 75 Main Street from commercial to residential.

She stated that her two story structure was currently retail on the first floor and two one bedroom apartments on the upper level. She is currently unable to rent the retail space.

Mrs. Peterson said she contacted a real estate agent and was advised that there was no market for this space.

This building was built in the 1800's by the Peterson family, in 1990 it was used as a residential house and then the first floor was turned into a retail store.

As Mrs. Peterson has fallen on hard times, she is asking for a variance to return the building to full residential, making it a three family home.

There is currently a residential on one side, one empty and one occupied building on the other and retail across the street.

Mr. Acquafredda wanted to know if this was in the Redevelopment area, from the floor Mr. Buccellato relied no.

Mr. Lopez felt that it would be a real problem making a residential house in a commercial zone.

Mr. Saporito thinks it is better to have an occupied building than an empty one, but it really should be retail.

Mr. Irene stated that failure to rent was usually not a good reason to change the status of a building.

Mr. McKenna asked if she had advertised for rental and was told yes.

Mr. Cassidy asked if there were any other questions from the board or the Public.

Mr. Howard Hershawn, 70 Main Street was sworn in.

He said he sympathized with Mrs. Peterson but he currently has vacancies in his building and feels it would adversely affect the property values by adding residential.

Mrs. Peterson said: "I am not changing anything on the outside, only on the inside."

Mr. Cassidy asked if there were any other questions from the board or the Public. There were none.

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Chairman Cassidy requested a motion. Mr. Lopez made a motion to deny the variance, Mr. McKenna seconded. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Rickey Butler
Yes: Kenneth Cassidy
No: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Joseph Saporito
Yes: Andrew Lopez
Yes: Daniel Acquafredda

Motion approved

Chairman Cassidy requested a motion to adjourn. Mr. Fitzsimmons made the motion, seconded by Mr. Lopez.

The board voted with all members in favor and the meeting was adjourned at 9:10PM.

Respectfully submitted
Nancy Jo Palermo
Recording Secretary