

Board of Adjustment Meeting

March 4th, 2009

Chairman, Walter Dietz called the Board of Adjustment Meeting of February 18, 2009 to order at 7:30 P.M. announcing that this meeting had been duly advertised according to Chapter 231, Open Public Meetings Act. The meeting took place at the Municipal Building in the Court Room.

ROLL CALL

Joseph Jaghab - Present
Barry Quick – Present
Helen Haines -Present
Mark Wetter, Vice Chairman -Absent
Walter Dietz, Chairman - Present

Frank Valcheck - Present
John Sheridan - Present
David Wald (Alt. #1) - Present
John Stamler (Alt. #2) - Present
Leon Krals (Alt. #3) - Present
Frank Herbert (Alt. #4) - Present

Also in attendance are Mark Anderson, Esq., Board Attorney , Woolson, Sutphen, Anderson & Nergaard, P.C.; William H.R. White, III, P.E., P.P., C.M.E., Board Engineer, Maser Consulting, P.A., Rebecca Marshall, Assistant Planner, Board Secretary; and Lucille Grozinski, C.R.S.

Pledge of Allegiance

Business from the Floor: none

Frank Incao –#_BA-07-38 – Block 40, Lots 2,3,4&13 – 7th Street Flagtown

- ❖ Mr. Skaar notes that this is a continuation.
- ❖ Questions of Mr. Golden's testimony is open to the public.
- ❖ Mr. Anthony Adamo asks if there are any documents showing the exact location of the well.
- ❖ Mr. Golden testifies he did previously testify to the location of the well.
- ❖ Mr. Golden shows where the well is located on exhibit A-23.
- ❖ Mr. Adamo is concerned that although Mr. Golden is pointing to where the well will be, there is not a drawing on the map from the engineer.
- ❖ Mr. White comments that the well has to be approved by the Board of Health as well.
- ❖ Mr. Johan Delgigani of Flagtown asks if Mr. Golden works for Van Cleef.
- ❖ Mr. Golden says he does not.
- ❖ Mr. Delgigani would like to know how he can testify to a drawing done by Van Cleef then.
- ❖ Mr. Golden testifies that in the absence in the engineer he can testify as to where the well will be.
- ❖ Chairman Dietz agrees that Mr. Golden can testify to this without representing Van Cleef.
- ❖ Mr. Anderson comments as to the legality of Mr. Golden's testimony and says more than one professional can testify and Mr. Golden's testimony is legal.
- ❖ Mr. Golden testifies that Van Cleef will provide a final drawing with the well on it.
- ❖ Mr. Skaar distributes A-25, a series of deeds pertaining to Mr. Incao's property.
- ❖ Mr. Skaar describes the chain of ownership and zoning to Mr. Incao's property.
- ❖ Mr. Skaar notes there is no subdivision deed and no clause that the property cannot be built on.
- ❖ Mr. Skaar gives his interpretation about the history of building in Flagtown.
- ❖ Mr. Skaar references a case determining if an offer on a neighboring property is deemed reasonable. Mr. Skaar notes this is relevant because the offer made by Mr. Adamo on Mr. Incao's property is not reasonable.
- ❖ Chairman Dietz opens the floor to comments from the public.
- ❖ Mr. Michael Thomas Roden is sworn in, Co-Chair of the Flagtown Residents Association.
- ❖ Mr. Roden believes the lot Mr. Incao wants to build on is not a suitable lot to be built on due to increase in impervious surface and traffic.
- ❖ Mr. McNerney is sworn in. Mr. McNerney feels that if Mr. Incao builds a house on that lot, it will change the character of the neighborhood and there is no real hardship issue.
- ❖ Mr. Adamo is sworn in. Mr. Adamo believes that \$20,000 for Mr. Incao's land is reasonable.
- ❖ Mr. Adamo is concerned about well placement and the effects on his well.

- ❖ Mr. Adamo is concerned about drainage issues and what the increase in impervious surface will do to his land. Mr. Adamo testifies he has three sump pumps already in his house.
- ❖ Mr. Adamo does not believe there is a hardship issue.
- ❖ Chairman Dietz asks Mr. Adamo where the water will drain.
- ❖ Mr. Adamo testifies that it will drain into a public park.
- ❖ Mr. Adamo asks that the Board deny the application.
- ❖ Mr. John Delgigani is sworn in. Mr. Delgigani offers a brief history of Flagtown.
- ❖ Mr. Skaar objects because Mr. Delgigani is not an expert.
- ❖ Chairman Dietz says the Board can take it for what it is worth.
- ❖ Mr. Anderson comments the Board needs to accept Mr. Delgigani's testimony as hearsay.
- ❖ Mr. Delgigani is concerned about drainage issues in Flagtown.
- ❖ Mr. Delgigani is concerned that there are no sewers in Flagtown.
- ❖ Mr. Delgigani testifies that Mr. Incao purchased the property at full market price from his mother.
- ❖ Mr. Skaar objects.
- ❖ Chairman Dietz upholds the objection.
- ❖ Mr. Delgigani testifies that two acre zoning was already in effect when Mr. Incao purchased the lot.
- ❖ Mr. Anderson does not feel there is enough evidence to support Mr. Delgigani's conclusion Mr. Incao purchased the lot from his mother at market price.
- ❖ Mr. Delgigani believes Mr. Incao has cleared some of the wetlands on the property.
- ❖ Chairman Dietz asks if there are any regulations for clearing wetlands.
- ❖ Mr. White responds that a person would need approval before clearing them.
- ❖ Mr. Delgigani believes the wall of wood that has been constructed is either on wetlands or Township property.
- ❖ A Board member asks where the wood came from.
- ❖ Mr. Delgigani believes it has to be trees from wetlands.
- ❖ Mr. Delgigani a chainlink fence should be constructed across the property from the wetlands if the application is approved.
- ❖ Chairman Dietz reinforced the Board of Adjustment is not an enforcement board.
- ❖ Mr. Delgigani wants the Board to ask Mr. Incao to participate in a remediation program if the application is approved.
- ❖ Mr. Delgigani believes if Mr. Incao's application is approved, it will "open the floodgates" to development in Flagtown.
- ❖ Mr. Delgigani cannot understand where the hardship issue comes in for Mr. Incao.
- ❖ Mr. Skaar ask Mr. Delgigani is the clearing of the wetlands has been brought up to the DEP. Mr. Delgigani says he has.
- ❖ Ms. Sally Fay is sworn in. Ms. Fay is concerned if Mr. Incao's lot is built on, it will set precedent for other lots in Flagtown.
- ❖ Chairman Dietz tells Ms. Fay the Board of Adjustment does not set precedent.
- ❖ Mr. John Glutch is sworn in.
- ❖ Mr. Glutch is also concerned about the drainage issue in Flagtown.
- ❖ Mr. Skaar comments Mr. Golden testifies any runoff from Mr. Incao's lot will runoff into the wetlands and that Mr. White did not object to this.
- ❖ Motion to close public portion, Mr. Sheridan, 2nd Mr. Stamler.
- ❖ The Board determines A-25 can be accepted into evidence.
- ❖ Chairman Dietz comments that Flagtown is a difficult area to deal with due to the bad drainage issues. Chairman Dietz comments sewers were put in to alleviate health problems, not facilitate further development.
- ❖ Ms. Haines comments that the usable part of the lot is quite small and there are several environmental constraints.
- ❖ Mr. Krals comments that the comparable lot values were for buildable lots and Mr. Incao's lot is not buildable without a variance.
- ❖ Ms. Haines makes a motion to deny.
- ❖ Mr. Valchek seconds that motion.

Roll call:

Mr. Valchek- Yes
Mr. Wald- Yes
Mr. Sheridan- Yes
Mr. Quick- Yes
Mr. Jaghab - Yes
Ms. Haines- Yes
Chairman Dietz- Yes

Application denied

Senior Living Solutions - #BA-08-19- Block 199, Lot 49, Amwell Road.

- ❖ Mr. Savo is representing Senior Living Solutions and The Avalon.
- ❖ Mr. Savo gives a brief history of the two lots.
- ❖ Mr. Savo describes the shared services between the two lots and describes a semi-public area along the sidewalk, including a pavilion, as suggested by Township Planner, Bob Ringelheim.
- ❖ Mr. Savo needs to request another ordinance if the alternate plan with the outdoor pavilion area is approved.
- ❖ Mr. Savo testifies they have added parking because this was an issue at the last meeting.
- ❖ In March 2008, a minor subdivision was approved by the Board of Adjustment.
- ❖ Mr. Wald and Mr. Krals are recused.
- ❖ Mr. Savo continues to go over what was already approved in the site plan.
- ❖ Mr. Demuro is sworn in as an engineer.
- ❖ Mr. Demuro describes the impervious coverage easement.
- ❖ Mr. Demuro describes the Senior Living Solution as a campus-type building that will be parallel to the Avalon.
- ❖ Mr. Demuro testifies the two buildings will have a common driveway/service road.
- ❖ Mr. Demuro also testifies there is a common water main, common pedestrian access and an existing sidewalk fronting on both properties.
- ❖ Mr. Demuro testifies the detention basin serving the Avalon can also serve Senior Living Solutions with minor modifications.
- ❖ Mr. Savo comments the county engineer also suggested a shared detention basin.
- ❖ Chairman Dietz asks about the common road between both buildings and if it will be served as a route for deliveries.
- ❖ Mr. Demuro comments the road already exists.
- ❖ Mr. Demuro references exhibit A4, depicting the portico that straddles the property line.
- ❖ Mr. Demuro uses this to show the shared driveway.
- ❖ Mr. Demuro also shows the shared parking between the two buildings.
- ❖ Mr. Savo testifies this is the same layout shown for the use variance.
- ❖ Mr. Demuro testifies the County had no issues with the driveway.
- ❖ Mr. Savo suggests the Board question the traffic engineer on the driveway concerning the exit to Amwell Road.
- ❖ Mr. Demuro testifies the parking has been increase to 73 new spaces including ambulance parking.
- ❖ There are forty-one existing spaces already.
- ❖ Ms. Haines asks if the applicant has been before the Environmental Commission.
- ❖ Mr. Demuro testifies they have and there is an updated letter in the file concerning this.
- ❖ Mr. Demuro gives testimony regarding the lighting at Senior Living Solutions and that it will match the lighting at the Avalon.
- ❖ Mr. Demuro shows the lighting locations.
- ❖ Mr. Badore from the public asks if there will be adequate parking because often there is spillover onto the street.
- ❖ Mr. Demuro testifies that there will be adequate parking because they have added even more parking than asked for.

- ❖ Kathy Riganti is sworn in as a landscape architect.
- ❖ Ms. Riganti describes the overall landscape plan for Senior Living Solutions.
- ❖ Ms. Riganti testifies that all the plant material chosen has seasonal interest and describes the plants chosen.
- ❖ Chairman Dietz asks if there are only two benches.
- ❖ Ms. Riganti replies there are only two in the front but more in the back.
- ❖ Mr. Savo comments that Mr. Ringelheim prefers the alternate plan with the pavilion is approved.
- ❖ Chairman Dietz asks if since the impervious on the Avalon will be increased, can the detention basin be made larger.
- ❖ Mr. Demuro testifies the size of the basin was inclusive of the entire site, including the alternate plans.
- ❖ Mr. Herbert asks how the plants will flourish when the sitting area is mostly in the shade between the two buildings.
- ❖ Ms. Riganti testifies the plants are shade tolerant.
- ❖ Mr. Pellegrino is sworn in as a co-owner and CEO with the Avalon and Senior Living Solutions.
- ❖ Mr. Pellegrino testifies the parking spillover was due to special events at the Avalon but he feels this spillover will be eliminated by the extra parking being put at Senior Living Solutions.
- ❖ Mr. Pellegrino testifies the pavilion will cost approximately \$40,000. Since this is so expensive, he would like to be relieved from having to plant the additional trees according to the tree ordinance but he will address this in more detail later.
- ❖ Mr. Pellegrino testifies the additional request by the Environmental Commission for walking trails is not feasible because many residents are elderly and walk with either canes or walkers. Therefore a walking trail in a limited site area is not safe for the residents.
- ❖ Ms. Haines comments that Amwell Road is a busy road.
- ❖ Mr. Pellegrino testifies that this is in the front of the building, and is more visible if someone were to fall and get hurt.
- ❖ Mr. Pellegrino testifies the people who will be walking toward Amwell Road are independent and not mentally incapacitated.
- ❖ Mr. Pellegrino testifies the pavilion area will be concrete because any walking surface needs to be level with no trip joints.
- ❖ Mr. Pellegrino testifies Avalon has 81 units and 97 residents. The Senior Living Solutions will have 75 units and 120 residents.
- ❖ Mr. Pellegrino testifies that more people visit the people in assisted living and not as much in the long term care facility so it is unlikely all the residents' children will show up at once.
- ❖ Mr. Savo asks for a waiver of \$7,500 for the tree mitigation plan if the alternate plan with the pavilion is approved.
- ❖ Mr. Pellegrino would like to put a pergola in lieu of the trees.
- ❖ Ms. Haines asks if there is any record of the County accepting the complete drainage plans.
- ❖ Mr. Savo says the application to the County is now complete.
- ❖ Mr. Coleman is sworn in as an architect.
- ❖ Mr. Coleman testifies he designed the Avalon and that Senior Living Solutions is a complement to the Avalon.
- ❖ Mr. Coleman reviews the various exhibits depicting the drawings of the proposed buildings.
- ❖ Mr. Coleman testifies there will be an aquatic center area and on each floor of the building, there will be a dining hall for the residents.
- ❖ Mr. Coleman states that on the third floor of the building, there will be a combination of Alzheimer's patients and people who need long term care.
- ❖ By putting people with Alzheimer's on the third floor, it makes it more difficult for them to leave the building.
- ❖ Mr. Coleman describes the Locknetics system which prevents patients with dementia from opening doors.
- ❖ Mr. Troutman is sworn in as a traffic expert.
- ❖ Mr. Troutman testifies there is 300ft between the driveways at the Avalon and the proposed building.
- ❖ Chairman Dietz comments the two exhibits reflecting parking and traffic do not match.
- ❖ Chairman Dietz also asks about the firetruck making the turn.

- ❖ Chairman Dietz is told he has mistaken the sidewalk for a road.
- ❖ Mr. Troutman believes the two driveways disperses the volume from the two facilities.
- ❖ Mr. Troutman testifies 300ft is more than adequate for both driveways to function at the same time and exceeds the DOT standards.
- ❖ Mr. Troutman has found peak parking occurs weekdays between 9am and 3pm. The employee parking is at the rear of the site and leaves room for visitor parking.
- ❖ Mr. Troutman testifies there is an excess of 12 employee parking spots at the Avalon.
- ❖ Mr. Pellegrino describes the staggered staffing at the Avalon, which will also apply to Senior Living Solutions.
- ❖ Mr. Engesser asks if when Mr. Pellegrino counted company vehicles if he included the transport vehicles that sometimes park on the road.
- ❖ Mr. Pellegrino says he did not count the service vehicles, but there are three of them including a bus that is not always on the property.
- ❖ Mr. Pellegrino testifies that only when there are special events, do the service vehicles park on the road.
- ❖ Mr. Troutman testifies a 20ft aisle is adequate to handle traffic flow.
- ❖ Mr. Troutman testifies that having two driveways eliminates confusion for visitors.
- ❖ Chairman Dietz asks about exiting from one driveway for safety reasons.
- ❖ Mr. Troutman testifies that the driveways are 300feet apart.
- ❖ Mr. Savo comments the peak hours of the Avalon and Senior Living Solutions are not the same as traditional peak hours.
- ❖ Mr. Troutman testifies the proposed Senior Living Solutions will not generate a lot of traffic.
- ❖ Ms. Haines asks if they had to add ten more parking spots, would they.
- ❖ Mr. Troutman comments that due to impervious coverage, this is probably not feasible.
- ❖ Mr. Troutman testifies that based on a study done at Foothill Acres, the parking at Senior Living Solutions should be adequate even during special events.
- ❖ Ms. Yannich is sworn in as a professional planner.
- ❖ Ms. Yannich testifies the side yard setback variance should be granted because of a hardship due to the shallowness and narrowness of the lot.
- ❖ Ms. Yannich testifies there are wetlands at the back of the lot that also cause a hardship and are unique to the property.
- ❖ Ms. Yannich testifies that with the alternate landscape plan, there is a need for an additional variance.
- ❖ Ms. Yannich comments the waiver on lot 51 should be granted because there is affordable housing scheduled to be built on that lot.
- ❖ Ms. Yannich comments that the Senior Living Solutions building is residential as is the affordable housing and there should be no problem with both abutting each other.
- ❖ Mr. Savo concludes his testimony.
- ❖ Mr. Robert Engesser of the public testifies there is room for ten more parking spaces at a lot next door.
- ❖ Chairman Dietz comments that the Board can only look at the property referenced in the variance and not surrounding properties.
- ❖ Mr. Engesser comments that many of the houses on the street are occupied by renters and that is why there is not much public outcry regarding the parking situation.
- ❖ Mr. Engesser testifies he makes deliveries to the Avalon and he has a hard time making the turn around when his truck is smaller than a firetruck.
- ❖ Mr. Badore testifies he too is concerned about the parking and he has been met with hostility when asking car owners to park elsewhere.
- ❖ Mr. Badore testifies the parking situation arises, not frequently, but “enough to aggravate you.”
- ❖ Mr. Badore makes it known he is not against the project as long as there is adequate parking.
- ❖ Mr. Badore is concerned that his daughter’s school bus driver cannot see due to the overflow of cars on the road.
- ❖ Mr. Badore comments he is in favor of the two way driveway.
- ❖ Mr. Anderson asks Mr. Badore about the school buses not being able to see.
- ❖ Mr. Badore says this happens frequently.

- ❖ Mr. Badore testifies the cars are the business vehicles of the Avalon.
- ❖ Mr. Badore testifies there are 16-20 cars parked on Steimitz Road and 6 on Amwell Road.
- ❖ Mr. Badore testifies the parking on his side of the road alternates and occurs two to three days of the five day work week.
- ❖ Mr. Pellegrino comments since he owns the neighboring property, they will use this for spillover parking and he will address the employees at the Avalon about parking on the street.
- ❖ Mr. Pellegrino testifies Mr. Troutman has designed the parking and driveways in accordance with the sanitation and firetruck turnaround radius.
- ❖ Chairman Dietz tells Mr. Badore to have any cars towed blocking his driveway.
- ❖ Mr. Engesser asks where the other property is where the cars can park.
- ❖ Mr. Savo comments that since the use variance was granted, the Applicant owns the site next door.
- ❖ Mr. Savo sums up his argument.
- ❖ Motion to close the public portion.
- ❖ Chairman Dietz asks Mr. Savo if the Board approves the application and if there is a parking problem in the future, would Mr. Savo come before the Board again requesting more impervious coverage to provide for more spots.
- ❖ Mr. Savo says yes, if needed.
- ❖ Mr. Savo will comply with the fire marshal's request.

Motion to Approve: Mr. Sheridan

2nd: Ms. Haines

Roll Call:

Mr. Valchek - yes

Mr. Sheridan - yes

Mr. Quick - yes

Mr. Jaghab - yes

Mr. Haines - yes

Mr. Stamler - yes

Chairman Dietz - yes

Minutes

Motion to approve Feb 4th, 2009

Mr. Quick

2nd: Mr. Stamler

Closed session Minutes Feb 4th, 2009

Motion to approve

Mr. Sheridan

2nd: Mr. Quick

Motion to adjourn

ADJOURNED 10:52pm

Submitted by:

Rebecca Marshall

Assistant Planner/Zoning Officer

Board of Adjustment Secretary