

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Special Meeting
Of April 1, 2013**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Special meeting held on April 1, 2013

Acting Chairman Joe Meer called the regular meeting to order at 7:10 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

Roll Call: Present: Mr. Dunay, Mr. Sacchinelli, Mr. Lowenstein, Mr. Seibel,
Mr.Gil, Mr. Sina, & Mr. Meer

Absent: Mr. Newman, Mr. Blecher, Mr. Puzio, Mr. Lancaster

Also in attendance were Bruce Rosenberg, Board Attorney; Candice Galaraza, Court Reporter; Ann Peck, Assistant Zoning Officer, Cathy Bozza, Zoning Board Secretary.

Board Professionals in attendance: Board Engineer: Paul Azzolina
Traffic Engineer: Berge Tombalakian
Board Planner: Peter Van Den Kooy

Mr. Joe Meer (Secretary) opens the meeting as Acting Chairman.

Fees have been paid and there is proof of service.

Commercial New Business:

1. Application#13-006, DaVita, Inc.
15-00 Pollitt Drive, Block 4804, Lot 3, Zone I-1
Interpretation as to the use of a Medical Dialysis Center being permitted under the Ordinance as offices are permitted. Proposed Medical/Dialysis Center is not permitted in the I-1 Industrial Zone. D-1 Use variance required as per Section 125-57.D.(d){1} Restriping and changes to the Parking Lot require minor Site plan approval as per Section 125-65.B(4) Parking variance to permit 95 spaces where 1 space every 100 sf. of net building floor requires 167 spaces as per 125-48. Sign variances to permit two wall signs on the front and side where only one

sign is permitted on each. Sign Projection from face of building 13” instead of 10” permitted, maximum letter height of 5’3” and 5’5” where 16” is permitted. Permit one sign above roof line where none are permitted. Height of Awning sign 4’1” where 8” is permitted as per Section 125-41.

Ms. Susan Rubright, Attorney with the firm of Brach/Eicher here on behalf of the Applicant, 15-00 Pollitt Drive Associates. (Property Owners)

Ms. Rubright explains they are here tonight seeking a use variance, some related bulk variances as well as a minor site plan approval in connection with a proposed use at the site as a Dialysis Center. DaVita, who is the proposed tenant, is one of the leading providers of Kidney Dialysis Services in the United States.

Ms. Rubright describes the site...the property is 3acres in size and is occupied by a building that is currently vacant but was previously occupied by Verizon.

Ms. Rubright noted they may need a variance for the number of parking spaces from the requirements of the Ordinance. There are no standards in the type of use proposed...

Ms. Rubright continues...they are upgrading certain features on site, including the parking lot, lightening...etc...which will require a minor site plan approval.

Ms. Rubright has Professionals tonight to speak...would like to call her first witness.

Mr. Meer (Acting Chairman) would first like to question Ms. Rubright on the current Dialysis Center currently in the Industrial Park, located at 18-01 Pollitt Drive and would like to know when this was approved...

Ms. Rubright would like to defer to Mr. O’Hara to testify regarding this but her understanding is DaVita is leasing this property and took it over from Valley Hospital...

Discussion...

Ms. Rubright explains the current existing Dialysis Center will continue to be there and her understanding is that Valley Hospital obtained an interpretation from the Zoning Board indicating it was part of the “Medical” Hospital use and therefore did not need a “use” variance.

Mr. Rosenberg (Board Attorney) addresses Mr. Meer and notes; the applicant is here on this particular property and must satisfy the burden of the use variance and profit the necessary testimony to support the proofs that are necessary for this particular building...you can inquire as to their operations nearby but he does not feel the applicant is asking for any type of amendment to what exists currently. They want a new use, a non-permitted use on this particular property so they have to provide the necessary proofs and have the Board weigh the positive & negative criteria...

Mr. Seibel (Board Member) questions the letter in package received regarding the withdrawal of the request for “interpretation” without prejudice....it mentions 81-01 Pollitt Drive....?

Ms. Rubright notes the error and corrects it to 15-00 Pollitt. She apologizes for this oversight.

Ms. Rubright calls her first witness.

Ms. Candice Galaraza (Court Stenographer) swears in: William Page, (Engineer)
6 Forest Avenue
Paramus, N.J.

Ms. Rubright certifies Mr. Page as an Expert witness in the Field of Engineering without any objections from the Board.

Reduced version of Site plan marked as Exhibit A-1 is passed to Board Members.

Mr. Page verifies for the record it is the same set of plans submitted with the application, date issued, February 13, 2013.

Testimony begins.

Mr. Page describes the site. Referring the Board to Sheet C2- Existing conditions plan... Walks the Board through the Site.....the Site itself is occupied by 1 story masonry black building, which is 18,500sf.

Parking is on the North Side of building, and parking on the East side...access to the site is a two way driveway off Pollitt Drive on the West side and a right end only off Pollitt Drive on the South side. Parking for the property is a continuous Asphalt driveway. There are no landscape islands....

Mr. Page continues..... Building is vacant.

Mr. Azzolina (Board Engineer) notes for the record, the North arrow on the drawing Mr. Page is referring to is actually in error. The directions he just sited are based on this.

Mr. Page makes corrections...North is actually where the East is....

Discussion.....

Ms. Rubright (Attorney for Applicant) makes mention of the Engineers Report noting some errors in the plans and they will correct this, it could be a condition of approval if the Board so chooses.

Ms. Candice Galaraza swears in: Mr. Paul Azzolina, (Board Engineer)
Azzolina & Feury Engineering
30 Madison Avenue
Paramus, N.J.

Mr. Peter Van Den Kooy (Board Planner)
CME Associates
1460 Route 9
Howell, N.J.

Mr. Berge Tombalakian (Board Traffic Engineer)
Boswell Engineering
330 Philips Ave
South Hackensack, N.J.

Testimony continues...

Mr. Page testifies the building will be painted and will be freshened up. They are proposing signage on the two sides of the building which would be the main entrance which will include an awning and on the east side also a “Davita” sign...

They are proposing 5 parking spaces for vans. These vans are not necessarily Ambulances but they are Emergency vans that will be bringing the patients to Dialysis’ and take them home...

Mr. Page continues his testimony explaining they will restripe half of the parking lot from the North of the building to the main access aisle...

Drainage is discussed.

Mr. Page explains his understanding is there is a pitch from the front of the building towards the access road at the center of the site. Explains the locations of the catch basins...etc...

Dumpster area is discussed....Two separate containers for solid waste & Recycling.

Refers to Mr. Azzolina’s comments in his review letter....regarding review of trucks and the pruning & maintenance to make things look better & healthier

Signage is discussed. Proposal for a new Monument sign...no variance is necessary for the sign location, they are following regulations. Signage will also be at the entrance & exits of the site.

Mr. Page explains “Stop signs” & “Do not enter signs” on the South side...
Directional signs for traffic circulation...

Lightening is discussed. Proposal is for two side lights mounted on 16ft. high poles centered in the parking lot itself. There are two existing side lights on utility poles on the west side of the site. The lights we are proposing will complement the existing lights.

Mr. Azzolina’s Report is reviewed and discussed.

Point by point analysis of the lightening plan will be submitted per testimony by Mr. Page.

Loading area and delivery trucks are discussed.

Mr. Page discusses entry & exits of the trucks. Delivery will be coming on the Pollitt Drive, south side of the site...loading & unloading at the location at the end of the building and will continue circulating out to the east side of the site.

Trucks will not be tractor trailers but semi-tractor. His understanding is they will have a total of two trucks with the delivery being 2x a week when the Dialysis Center is in full operation.

Building itself is discussed...any issues in regards to any doorways or any new structures in regards to loading areas...

Mr. Page does testify to having a larger door at this location...it will be someone familiar with Davita so they will know the location of the loading area...

Testimony continues...

Entrances are discussed. One is the main entrance fronting on the parking lot & another within the building, which is the reception area or lobby...the other entrance is on the east side of the building and this will also have a sign and awning...

Generator is discussed...

Mr. Page discusses the location of the generator. There is a bank of transformers on the east side of the property. The transformers have bollards and a chain link fence around it. The generator, to his understanding will be adjacent to this area. The generator is going to be in a self enclosed containment and will meet the State & Borough’s requirements-(65EBA for a generator.) They are also proposing a fence and bollards for protection.

No utility upgrades are being proposed. Their intent is to use the existing utilities that are at the building which is the water, gas & electric.

Signage Package is discussed in length. Refers to Monument sign & locations...
Testimony continues.....

The signs are internally illuminated and the intent is to highlight the building so when people do come into the parking lot or when they come down Pollitt drive, they do have visibility & will know where “DaVita” is...

Review of Mr. Azzolina’s report...

Ms. Rubright (Attorney for the Applicant) speaks to the existing non-conformities’ ...it is her understanding they are not changing any of the existing non conforming conditions...can you confirm this and walk the Board through this.

Mr. Page clarifies this and discusses these non conformities...depth of the property... front yard setback...maximum pervious coverage....

Ms. Rubright discusses Mr. Azzolina’s report, asks Mr. Page to walk them through.....

Contour Topographic map was not provided because they are not intending to change any of the exterior site positions, other than restriping, signage & landscaping.

Ms. Rubright clarifies they will be requesting a waiver for this condition.

Drainage calculations....

Mr. Page testifies since they are not changing the topography of the site, they are requesting a waiver on this as well...

General Soil types...

Mr. Page testifies this would fall in the same category, since they are not changing existing conditions, roadways, parking areas & back. There would be no involvement with the soil conditions at the site.

Proposed Utility infrastructure plans...existing utilities not shown...

Mr. Page states they will provide these.

Landscaping Plan not submitted...

Mr. Page explains they were not proposing to add any new landscaping to the site. There is quite a bit of shrubby around the site...around the entire building, there are quite a few Trees around the site.

Mr. Page states they will submit a plan or meet with whomever, if the Borough has a Landscape Commissioner and review with him what it is he would like to see.

Ms. Rubright walks through other items that were not covered but would like to defer these items to Mr. Maltz & her other Professionals here tonight.

Storm water Management is discussed with Mr. Page in reference to doing a closed circuit television video.

Mr. Page would defer this to Mr. Azzolina, but their initial comment is; they do not feel this would be necessary. He did go out to look at the site and he did see one storm drain on the NE corner of the site and unfortunately it was not connected to the roof, so this will have to be fixed. There is another storm drain over the Canopy walkway on the SE side of the site that was draining water and did not go anywhere other than on the surface.

Mr. Page would recommend some sort of solid impervious treatment where the downspout is so it would not erode the ground but notes if there were other additional concerns and the Borough Engineer would prefer something for them to do, they would have no issues with this.

No other questions from Ms. Rubright.

Mr. Meer (Acting Chairman) defers to Mr. Azzolina (Board Engineer)

Mr. Azzolina had a couple of observations relative to the roof drainage system. It was not apparent to him where the pipeline goes to which is why he recommended a video investigation. It looked to him it may go to the property to the West of the site. It also looks to be, perhaps a paved over manhole on the property. He is not sure if these sites were in common ownership at some point in time, at which time it wouldn't have been a problem to have a design such as this, but if there is different ownership now....

Mr. Azzolina would also like to know from Mr. Page the number of lights at the site. The plans depicted three (3) new pole mounted lights, in which his testimony stated two (2)...

Mr. Page reviews the plans and clarifies three (3) new pole mounted lights.

Mr. Azzolina notes the point by point would indicate to him whether the lightening levels are appropriate...

Mr. Azzolina walks through a couple of minor issues related to the Trash facility. He notes the gate will have privacy slats and is assuming the whole enclosure will have privacy slates...

Mr. Page testifies the whole enclosure will have privacy slats. It will be revised to show this.

Mr. Azzolina states; other than these few items, with the other testimony to follow, he believes the applicant has addressed the comments contained in his report to the Board.

Ms. Rubright asks Mr. Page in reply to the Engineer's recommendation of the video regarding the Storm Water drainage, is there another way they could come to a resolution short of the video?

Mr. Page states yes. You can put dye in some water and see if it does come out in one of the catch basins...

Mr. Meer asks if there are any questions from the Board.

Mr. Sacchinelli (Board Member) questions the drains that come down off the building, are they directed in any specific direction?

Mr. Page notes, as stated; one roof drain, map reference NE corner is not connected to the roof, but the pipe does come down and go into the ground...at one time it did go into an underground piping system...the roof drain over the Canopy does go into the ground itself.

Mr. Sacchinelli suggests a Dry Well....gives explanation why he would suggest this.

Mr. Page states he could check with his client on this...

Ms. Rubright interjects and states because it is an existing building and they are not making any changes to the exterior, she is not sure if she can commit her client to doing a "Dry well"...they will certainly explore certain opportunities to confirm where the drainage is going and be sure it will stay on the site. Speaks to "Conditions"...

Discussion continues....

Mr. Sacchinelli also has concerns regarding the Dumpsters...will they be closed dumpsters or open topped dumpsters.

Mr. Page testifies to his understanding they will be closed to keep the cardboard and paper from blowing around.

Mr. Sacchinelli questions "Hazardous" waste?

Mr. Page testifies this will be handled separately, within the interior of the building.

Generators Location is questioned. Will they be indoors within a closed building?

Mr. Page explains the Generator will have a self contained enclosure.

Mr. Sacchinelli inquires about the oil tank that runs the generator...where will this be?

Mr. Page testifies he believes this will be run by natural gas.

Ms. Rubright (Applicant's Attorney) notes her understanding is Generators are not permitted to be inside buildings, its location will be in compliance with all code requirements in terms of distance from the building...

Discussion continues....

Mr. Sacchinelli has doubts with the information of the generator being run by natural gas and notes information on the plan stating tank fuel levels. There is a big difference between Gas & Oil.

Ms. Rubright states she has specifications that are 2-3 inches thick on the generator. She could provide this information if need be...the testimony is they will comply with any and all State & Local regulations that are pertinent to the generator.

Mr. Sacchinelli is satisfied with this but would like it on record, if it is oil, if there is any Storm Drain Management, any sewers or any areas where the Oil Tank reaches into...

Mr. Page reiterates he believes it is Natural Gas...to be tied into the system. He does not believe it will have a self contained gas storage area, this is his understanding.

Discussion continues....

Mr. Meer asks if there are any other questions from the Board.

Mr. Lowenstein would like to clarify the name: is this Hemo Dialysis or Home Dialysis?

Ms. Rubright clarifies and explains it would be both. It will be a Home Dialysis Training and there is Hemo Dialysis which is the process.

Discussion...

Ms. Rubright will have Mr. O'Hara (Professional Witness) speak to this...

Mr. Lowenstein questions landscaping and notes testimony states you are over 7% Impervious coverage....it is an existing condition but wanted clarification on the pave over with water drainage?

Mr. Page clarifies this is all to repair the parking lot. If there are areas where the asphalt is in bad shape, we will repair it. We will not increase the impervious we have now.

Discussion continues....

Mr. Rubright clarifies the prior testimony regarding additional paving where the Canopy is. There is a downspout that picks up the rainwater on the Canopy and right now it empties into a little area which has eroded away the soil...you have a small little (inaudible) which would make the water runoff onto the asphalt instead of eroding the dirt...it may be 12” wide by 2ft. long..

Discussion continues.....

Mr. Meer has questions regarding issues brought up by other Departments in the Borough...first being the Health Department. How much Medical Waste and what Company will be hauling the Medical Waste away?

Ms. Rubright will defer to Mr. O’Hara who is her next witness.

Mr. Meer continues with the reading of the Department of Public Works review:

In case of an Emergency Water Main Break, loss of water or drop in pressure in the Water System, provisions or accommodations should be build in to these plans by the Dialysis Center to insure a continued operation for a minimum of an 8 hr. period. Whether those accommodations or conditions include the installation of an outside water storage tank or not, is strictly a decision to be made by the Board. As with other facilities present within the Borough, if any of the above conditions do occur, all efforts shall be made by the FL Water Department to notify “DaVita” Inc of any impending problems within the Water System...

Mr. Meer then asks: If there is a need for a Water Storage Tank?

Ms. Rubright asks if she could defer this question to Mr. O’Hara as well.

Mr. Seibel questions the main egress & ingress...will this be in between the two parking lots, is this where the most activity will be? Will there be signage to direct people.

Mr. Page testifies yes and they will have a Stop Sign and they will see the entrance to the Center so they will circulate and migrate towards the center itself.

Discussion.....

Mr. Seibel notes he has concerns the people will blow by the entrance and then see the sign...

Mr. Page explains notes this and states there is another entrance on the other side..

Mr. Seibel explains this will be where the trucks deliver, yes?

Mr. Page explains the trucks will be there for a maximum of 2 hrs during the drop off and maybe 2x a week.

Mr. Seibel continues his cross with the question, the truck will be unloading, an ambulance type van parked on the side, will a car get through there?

Mr. Page reviews and admits it will be tight...offers a remedy in case this does happen. "It would be up to the management of the facility and the truck driver. The truck could pull over to this space (points to site) because the facility will know when the truck is coming and they could cone off several parking spaces for this and the cars & ambulances could then get through."

Discussion continues...

Mr. Seibel questions the 5000sf left over in which DaVita is not taking, where will their entrance be to that 5000sf?

Mr. Page explains it will be the backside of the building where the Canopy is, this will be the entrance to this section. There are no plans at this moment as to who will be going into this.

Discussion...

Mr. Meer asks if there are any more questions from the Board. Seeing none,

Mr. Meer asks if the Board Professionals have any comments or questions for this witness.

Mr. Azzolina (Board Engineer) would like to comment on the setbacks he forgot to mention....clarifies. Also, are you proposing any sort of loading zone dilatation in the vicinity of the existing door? This is unclear to him....no striping, no signage to indicate that this is the loading zone.

Mr. Page testifies at the moment we have not proposed anything, but will work with him and the Board as to what you will prefer.

Mr. Van Kooy (Board Planner) has no questions or comments.

Mr. Dunay (Board Member) questions the parking lot...being divided into two segments, the current one that has striping and the additional macadam...you mention repaving the lot...is this just the striped portion?

Mr. Page explains his understanding is just the striped portion. The unstriped portion is leased to the office of the Industrial building to the right.

Mr. Rosenberg (Board Attorney) would like to clarify. The Block 4804/Lot 3 is used by an adjoining building?

Mr. Page explains; there is an agreement to his understanding.

Mr. Rosenberg notes agreements are important for the Board to have...neither him nor the Board had any idea this other lot is used by an adjoining property.

Discussion.....

Ms. Rubright (Attorney for Applicant) states she does have a witness to speak of this.

No further questions for this witness.

Ms. Rubright calls her next witness.

Ms. Candice Galaraza (Court Stenographer) swears in: Mr. Joseph O'Hara
5 Euro Drive
Edison, N.J.

Mr. O'Hara is a Regional Operations Director for DaVita Dialysis in the United States. Explains his responsibilities...

Mr. Meer certifies Mr. O' Hara as a Certified Expert Witness in Operations Director. with no objections from the Board.

Mr. O'Hara begins his testimony.

Mr. O'Hara gives the background of DaVita explaining DaVita is a Dialysis Services Corporation. They do not manufacture equipment like other companies do. They simply provide clinical services.

Currently, there are over 1,800 Dialysis Clinics in the U.S. treating over 150,000 patients. In New Jersey alone, DaVita has a total of 38 Clinics and is expanding in order to meet the growing needs of the State.

Mr. O’Hara continues with a little background on Hemo Dialysis. Hemo Dialysis is the process of cleaning blood through a Dialysis Filter and there is also another process that does not access blood...called peritoneal dialysis which is accomplished through (inaudible)...patients can do this treatment at home...at night or different time throughout the day.

DaVita provides both types of dialysis. At the Center, they treat out-patient Dialysis patients, explains.....sit in chair, watch TV. etc.

Mr. O’Hara explains they also train patients who would prefer dialysis in the comfort of their own home, explains....

The goal is to provide the best service for the population...

Testimony continues.....

Mr. O’Hara testified there is a shortage of dialysis centers in the area and Doctors have sent patients to Teaneck, Hackettstown for treatment.

Mr. O’Hara explains the facility at 18-01 Pollitt is at full capacity & the clinic has 20 Dialysis machines & currently the average person needs to use it 3x a week , either Monday, Wednesday, Friday or Tues, Thursday, Saturday, operates 6 days a week, with 4 different shifts....explains...

Mr. O’Hara notes based on recent Medicare data there is a 4.6% annual growth rate in the need for dialysis in New Jersey...

Testimony continues....

Mr. O’Hara is questioned on regulations...

Mr. O’Hara testifies Dialysis is a very heavily regulated Industry. Explains.....

CMS & the State of New Jersey Department of Health and Senior Services requires full licensure to operate any dialysis center.

Mr. O’Hara continues....the proposed site for this dialysis facility has already received approval from the State Department of Community Affairs and that once it was operational, the State Department of Health would need to inspect and approve the Facility.

Ms. Rubright asks Mr. O’Hara to walk the Board through the operations and number of patients, etc....

Mr. O’Hara testifies in respect to the operations of the dialysis clinic, the facility would have a maximum of 21 dialysis treatment chairs. Patients will begin arriving at 6:00 am. The staff is comprised of clinical Personnel as well as Professionals, this includes registered nurses, dialysis technicians, Licensed clinical social workers, registered dietitians and ancillary clerical staff.

Each facility would have an on-site facilities manager, biomedical technicians and maintenance technicians who are responsible for maintain water filtration and dialysis equipment.

Testimony continues.....

Mr. O’Hara notes sometimes patient physicians may also come into the facility in order to monitor patient dialysis.

Testimony continues.....

Ms. Rubright questions Mr. O’Hara on how shifts work.

Mr. O’Hara explains he anticipates two to three nurses and six dialysis technicians per shift, stating shifts work based upon a standard 4 hour dialysis treatment time. When two shifts are running, the center staff will work eight hours...if three shifts are required, the work day is increased to 13 hours shifts for a maximum of three days.

Mr. O’Hara explains if 4 shifts are required, the facility will run two separate staffs of 10 hour shifts. The Facility will operate normally 6 days per week and Sunday they will be closed.

Ms. Rubright questions Mr. O’Hara with respect to Home Training (Hemo-Dialysis)

Mr. O’Hara testifies these patients come in for 7 training days and are there for a period of 4-6 hours each 5 days, and two days the next week and then cared for at home.

Testimony continues....

Ms. Rubright asks Mr. O’Hara to explain the 8 home dialysis rooms...

Mr. O’Hara states; once a patient goes home for Dialysis, they do need to come back for clinical visits, to be seen by the Physician, Nurses, Social Workers and the Dietician..on a once a month visit.

Mr. O’Hara continues with explaining the operations of the Dialysis Center...testifies that on site dialysis patients are all prescheduled for their treatment times and 5 patients are normally scheduled at 15minute intervals and the treatment period is usually 4 hrs.

Testimony continues....

Ms. Rubright questions the “Drop Off” of patients..

Mr. O’Hara explains with respect to transportation of patients, based upon time & experience, and will vary from Clinic to Clinic depending on the demographic or the age of the population. 25% of their patients still like to drive and park for their treatment...25% are dropped off by either family or caregivers in their private cars, and approximately 50% of their patients are transported by Mini-vans or as we refer to them as ambulances....they are not quite ambulances but transport vans...

Mr. O’Hara walks the Board through the Architectural Drawings and the proposed interior changes needed to accommodate the proposed dialysis center. Explains the dialysis process requires a use of purified water...its water that is manufactured out of a reverse osmosis machine which filters water and in order to carry out this filtration, the facility would need a drain system. We would have to cut the concrete and lay drain pipe in the slabs...each dialysis machine is hooked up to a water supply which takes the purified water and mixes with electrolytes we have in our bodies....it is a continuous process...

Testimony continues.....

Mr. O’Hara testifies anything going into the sanitary sewer systems are **not** hazardous waste products. They are purification products from the reverse osmosis machines, explains in detail.

Testimony continues...

DPW issues are addressed.

Mr. O’Hara explains; In the event of a Natural Disaster, they have engaged the National Guard where they have private suppliers who will supply Tanker Trucks who will be able to operate in this facility...explains in detail.

Testimony continues on Emergency Procedures & protocols...

In the event of an interruption in treatment, patients can be removed from the process and rescheduled. In the event of an Emergency, they would transport patients if need be to the hospital. In the event of a prolonged water shortage, DaVita has other facilities in the area which would accommodate the patient needs.

Medical Waste is discussed.

Mr. O’ Hara testifies with the Dialysis Process, the machine uses a series of disposable tubes & filters which are disposed of after every patient use...we also have normal

hospital uses which are; syringes, needles, bandages & gauze pads, etc....all are regulated strictly by the Department of Health, under the Infection Control regulations...Containers are on each of the Dialysis Treatment area, double red bags which is a process used which then go into a cardboard box or plastic containers...size is approximately 7 gallons and then transported by the personnel to a locked area which is inside of the Dialysis Treatment Facility.

Mr. O'Hara continues....they engage a company called Steri Cycle. It has a contract with most of the hospitals in the area. They come in with the trucks and transport the boxes or containers out to the disposable site in PA. At no time are the waste products exposed to the Public. They are under lock & Key.

Ms. Rubright asks Mr. O' Hara to please speak to Delivery & types of products that are delivered.

Mr. O' Hara explains for a clinic this size and if we go to two shifts we would have one delivery a week. It could be a 24ft. Box Truck and most of the supplies come in on pallets. They are packaged by the Vendors. There are 3 Major Vendors...explains..

One is for the Hospital Supplies. There are two other vendors that have Dialysis Specific Supplies, Filters, Lines, bags of solutions, etc.

These supplies are delivered in pallets and stored in our locked storage area once a week. The delivery takes about an hour. They come early in the morning around 6 A.M.-6:30 A.M. and be on their way.

Mr. O'Hara testifies if business ramps up, the deliveries may increase to two times a week...explains.

Testimony continues.....

Ms. Rubright questions Mr. O'Hara on the concern regarding the ability of vehicles from patients being able to pass by the delivery trucks or the Ambulatory trucks that may park near the specific loading & unloading area.

Mr. O'Hara testifies he does not recall them identifying a specific loading or unloading area.

Discussion continues.....

Mr. O' Hara testifies they would do whatever needs to be done in order to avoid an issue.

Testimony continues....

Ms. Rubright questions Mr. O’Hara asking him if there are plans for the unused space at this time.

Mr. O’Hara testifies not at this time.

Ms. Rubright continues with the question, if they were to lease this space, what type of use would you consider?

Mr. O’Hara states whatever is allowed or appropriate.

Ms. Rubright would like Mr. O’Hara to address the concerns of the Board Engineer.

Mr. Azzolina (Board Engineer) makes note that he feels Mr. O’Hara has addressed the concerns mentioned in his report...just needed clarification on some terminology...

Reverse Osmosis?

Mr. O’Hara reiterates the procedure....

Mr. Azzolina questions the stations, asking if each station would have a separate plumbing hookup.

Mr. O’Hara testifies yes, this is correct.

Mr. Azzolina follows up to clarify; his assumption would be there is a 6-8inch lateral sewer coming out of the building would be efficiently sized to service the demand.

Mr. O’Hara testifies he has been told by his Engineers who design these facilities, that the existing facilities would handle every one of the requirements.

Mr. Azzolina notes the size is not indicated on the plan currently, so he wanted to be sure of this.

Mr. Azzolina notes to the Board, he had spoken with the Borough Engineer, who is familiar with the Borough’s Sanitary Sewer System, and indicated he did not anticipate any capacity issues and there was adequate sewer service available in the area of the site.

Mr. Meer asks if there are any questions from the Board or from the Board Professionals.

Mr. Lowenstein questions the letters FEC. What do they stand for?

Mr. O’Hara cannot answer the question.

Discussion.....

Mr. Azzolina (Board Engineer) comments he thinks the EC stands for existing columns, but the F part, he does not know.

Discussion continues..

Mr. Seibel questions the Kidney failure....

(Lost Audible Sound....) few minutes pass...

Mr. Sacchinelli questions Landscaping & Maintenance Crew with Generator or issues that may arise.

Mr. O’Hara notes they have people on call with contracts.

Mr. Seibel asks if the lease was signed prior to getting approvals & a variance.

Mr. O’Hara testifies yes they did.

No further questions from the Board for Mr. O’Hara.

Ms. Rubright (Applicant’s Attorney) states she has two more witnesses to testify.

Mr. Meer calls for a 5 minute Recess before testimony is heard.

**ROLL CALL: Mr. Dunay, Mr. Sacchinelli, Mr. Lowenstein, Mr. Seibel, Mr. Gill,
Mr. Sina, & Mr. Meer- Present**

Ms. Rubright (Applicant’s Attorney) calls her next witness.

Ms. Candice Galaraza (Court Stenographer) swears in:

Mr. Harold Maltz, Hamel Associates, Inc.
19 Porter Road
West Orange, N.J.

Mr. Meer is certified by Mr. Meer as an Expert witness in the field of Traffic Engineering with no objections from the Board.

Ms. Rubright asks Mr. Maltz to please explain what he was hired to do in connection with this application.

Mr. Maltz begins his testimony stating he was retained to perform a parking demand analysis for the Dialysis Center, including the 5,000sf remaining in the building to be leased as office.

Mr. Maltz reviews the application with the Board and notes he would like to point out the Dialysis Center is not a Medical Office. Explains the difference....

A Medical Office has a constant flow of patients & there is a constant flow of people coming through hour by hour. In the Dialysis Center, there are 21 Dialysis chairs proposed as well as several (8) Hemo (Home Dialysis) rooms... focused times for the shifts, they stay for around 4 hours, very little activity, leave and the next shift begins..

Mr. Maltz states it is a completely different type of flow. This type of operation does not have traffic activity during the peak hours of the street. They start early and they tend to be at the offbeat time of day. There is no significant or notable impact at the peak time.

Mr. Maltz speaks of the Municipal off street parking requirements. Under the Borough Code a Medical office would require a parking ratio of 10 parking spaces per 1,000sf or 167 parking spaces, in comparison to a non Medical office which would require a total of 74 parking spaces for the Dialysis center and the remaining 5,000sf of office space.

Mr. Maltz continues....the proposal would have a total of 95 parking spaces. With respect to the justification for the parking variance, he states the overall uses at the center are very regimented and would not be high parking generators...

In conducting the parking analysis, he notes it was assumed that all 21 Dialysis Stations would be in use at one time in each shift. Dialysis patients require treatment 3x per week up to 4 hours. The treatments cycles run Monday, Wednesday & Fridays or Tuesdays, Thursday and Saturday...

Mr. Maltz continues his testimony explaining the Home Training Sessions...these training sessions are attended by patient & their assistant/partners with the session lasting around 4 hrs during normal business hours.

They do not bundle everyone in, so it would be an even flow. 5 people with 21 chairs in a 15minute window....

Testimony continues....

Mr. Maltz reviews with the Board the Shift changes...parking demand analysis he conducted which included the breakdown between patients and the staff...

In review, Mr. Maltz explained through his experience of DaVita operating hundreds of Dialysis Centers across the country, 25% of patients drive themselves and park at the facility, 25% would be dropped off by family & 50% of patients would use some form of medical transport.

Mr. Maltz speaks to peak parking demand. Notes to the Board, peak parking demand for the facility would be between 2:45-3:15 P.M. with 31 parking spaces required.

Testimony continues.....

Mr. Maltz speaks to the Medical Van usage.....all these vehicles fit into standard parking spaces. Sometimes these vans just drop off and sometimes the patients are removed by gurney, being there the most 10-15 minutes.

Mr. Maltz reviews the Peak Parking demands....On Site circulation....in his opinion site circulation was more than adequate for providing safe vehicular ingress and egress as well as safe and efficient circulation. He does note the existing drive isles are wider than the required 24ft....existing being 26 to 30ft. which affords very good maneuvering ability for larger vehicles around the site.

Testimony continues.....

Berge Tombalakian (Board Traffic Engineer) notes he had reviewed the Applicant's Traffic Engineer's report and notes this type of use would not generate the parking demand of a Medical Office as testified to. Because the applicant operates another dialysis facility in the immediate vicinity of the site, Mr. Maltz has used actual data as to the parking demand rather than speculation.

Mr. Maltz discusses signage. Handicap signs, etc. everything will be according to the accepted standards...he also comments there is more than adequate parking for the site building.

Mr. Meer asks if there are any questions from the Board.

Mr. Dunay questions Mr. Maltz on the impact of 4 shifts working...the unused portion of the 5000sf available, etc...

Mr. Maltz explains the shift changes & does note that sometime during the day there could be an overlap of a half hour period which would increase parking demand to 40 rather than 31 but in light of the 95 parking spaces, this would be the de minimis impact. No matter how you cut it we have more than enough of parking spaces.

Discussion continues....

Mr. Azzolina (Board Engineer) questions Mr. Maltz and asks given the location of the 6 handicap spots at the main entrance, a cross walk would be warranted across the active driveby?

Mr. Maltz notes because the handicap spaces are perpendicular to the building space there is no walkway type arrangement...explains the only place you could put the crosswalk would be adjacent to an actual parking space.

Mr. Azzolina accepts this.

No further questions from the Board.

Ms. Rubright (Applicant's Attorney) calls her next witness.

Ms. Candice Galaraza (Court Stenographer) swears in:

John McDonough (Professional Planner)
101 Gibraltar Drive
Morris Plains, N.J.

Mr. Meer certifies Mr. McDonough as a Licensed Professional Planner without any objections from the Board.

Mr. McDonough begins his testimony stating he has reviewed the site and the uses and the Municipal Zoning Ordinance.

His analysis starts by with the look of what is on the ground now. Taking what is there, occupying it with the particular use and then retrofitting the use into the building and the site. He looks at what is around the site, the zone plan, the plans put before the board and of course the testimony and the interaction with the Board Professionals through their reports and the testimony of the experts this evening.

Mr. McDonough states he has prepared his analysis in the context of the Medici Standard...which requires an enhanced level of proof...explains.

He has concluded that the test has passed and he can elaborate to the Board..

Mr. McDonough states he would like to photo document his finding with respect to what is on the ground right now, he feels it is important in the context of the site itself and what is around the site.

Mr. McDonough has put together a 3page hand out Exhibit from an aerial standpoint & from a ground standpoint as well...(passes it out to everyone)

Entered as Exhibit A-11x17 sheets comprised of 3 pages.

Pg. #1-Aerial Photo-

Pg. #2- series of 4 ground photo depicting the condition of the site about a month ago (snow still on ground)

Pg. #3-set of 4 photos depicting the general condition of the property surrounding the subject site.

Mr. McDonough begins with the aerial Photograph....describes they are looking at an area that is dominated by that McBride Industrial Park which is one of the oldest Industrial Parks here in N.J...

Mr. McDonough testifies this is a site that is developed. It is a 3acre piece of property. The building is vacant and is still vacant since Verizon left it sometime ago. It is an 18, 500sf building....there are 98 parking stalls. There is also an additional paved area which is undefined in terms of striped parking.

There are two points of access into the property....points to the locations.

There is a mixed character to the area as they transition to the South where there are Multi-family apartments that are distant & remote from where the activity will be on this piece of property.

Mr. McDonough notes as they proceed to the west, you see the dominance of Office, Warehouse type uses.

Testimony continues....

Mr. McDonough reviews the next set of Photographs with the Board which depicts the condition of the property....explains.

Mr. McDonough notes the access Drive where the applicant will introduce a new Monument sign at this particular location in lieu of the "Enter only" sign...

Walks the Board through the 2nd frame...west elevation and a side entrance. There will be a new service entrance somewhat central to this elevation...

Frame #3-gives a sense of the expanse of pavement that is associated with the building. This is important because this is where the primary patient location will be...explains.

The applicant is looking to introduce Building math & signage at this particular location. Given the remoteness of this parking lot and the length, signage does become important for clear & safe identification of the site.

Frame#4- is a view of the subject parking lot looking back to the South. Giving you a sense of how far away the Multi-Family apartment buildings are from the subject site.

Mr. McDonough states the next set of photo gives the sense of the character of the area.

Frame#5-is a Office Warehouse immediately on the opposite side of the street ...in his opinion, he does not consider this a pure Industrial zone or Office Industrial zone, noting there was another medical in 15-01 Pollitt Drive, a “Freedom Medical Specialists” are located right across the street...giving a sense of the mixed character in the area.

Frame#6-Land use to the West which is another Office Warehouse.

Frame#7-view of the distance apartments.

Frame #8-railroad separating Radburn.

Mr. McDonough testifies in terms of the variances that are being requested in the Zoning consideration, they are in the I-1 Restricted Industrial District which does allow for Office uses & Hospitals as a Conditional Use in the zone.

Testimony continues....

The use that is being requested is not specifically permitted or expressly described in the Zoning Ordinance. He classifies this as an Outpatient/Kidney & Renal Dialysis Center.

He has heard the testimony of the Traffic Engineer & he would agree with Mr. Maltz, this is certainly not a traditional Medical Office use that would trigger that 10 per 1000 parking requirement we would see for a more traditional Medical use. This is more equipment intense than population intense. This is a mild traffic generator & low parking generator in terms of demand at this particular site.

Testimony continues...

Mr. McDonough notes the Medici tests which does require the showing of special reasons on the positive side and the negative criteria as well in terms of the variance can be granted without substantial detriment to the surrounding neighborhood, he has looked and reviewed the Borough’s Master Plan as well as 2007 study that was particular to the Route 208 corridor which does call out this site to be used for a “Commercial” use or “Office” use. This is a “Commercial” use so there is compatibility with the Planning documents as he sees it.

Testimony continues....

Mr. McDonough reviews the special reason side. He believes that the general welfare is promoted with its very positive Health Care use. In terms of the industry numbers and the demand indicators, they are looking at what has now become a billion dollar industry

here...the increase in the number of end stage renal disease here in the U.S. 600,000 patients are being treated for this type of dialysis...

In terms of particular suitability, the use has co-existed in the context of this complex without detriment for many years. They are only putting in a facility a couple 100ft. away from the very same facility....

Testimony continues...

Mr. McDonough notes they are not necessarily dealing with an inherently beneficial use such as a hospital that would automatically satisfy positive criteria, but he feels he can argue from a planning standpoint, they come very close with this particular healthcare use.

Negative Criteria is discussed. Mr. McDonough looks to balance the positive attributes to this application with the impact on the neighborhood in terms of safety, health & welfare impacts.....

Speaks to safety...parking...no substantial detriment from a public safety standpoint in terms of fire safety, security & the like....Medical waste, solid waste, air pollution, etc.... There is no impact on noise, glare...

Mr. McDonough testifies in his opinion, this is certainly an efficient use of land. Taking what is there & putting it back into a positive functional use. It is a very positive application.

Ms. Rubright asks Mr. McDonough to please speak to the Board on the Sign variances.

Mr. McDonough testified with respect to the sign variances, starting with the wall mounted sign, C3-it is a Monument type sign that needs a variance for height, 5 ½ ft. where the Ordinance allows for 2ft. we are replacing what was originally a wall mounted sign on the front of the facility and for clearance & safe identification of the site.

Testimony continues...

They are not looking for variances on letters heights. The signs are on par with other signs he saw in the Industrial Park. It will not be overbearing...this is a singular tenant, somewhere down the road there may be a second user that would retrofit into this particular sign we are proposing.

In terms of the wall mounted signs, he directs the Board to C-5 which pertains to the Architectural elevations, the sign that faces the main entryway. The South elevation which is now a bland wall...this will now become the primary access to the building for the patients. A variance is needed for the letter height of this sign...5ft 3" where 16" is allowed by Ordinance...explains...

Mr. McDonough reiterates clear & safe identification given the long line of sight to the facility from Pollitt Drive warrants this sign variance to direct the population into the facility...

This in his opinion would not be overbearing given the size of the wall, etc...it is a critical component of the beneficial to clearly demarcate the entrance into the building itself.

Testimony continues....

Mr. McDonough speaks to the projection of the letters, channel letters which are proposed at 13 inches where 10 inches is allowed by the Ordinance...this is de minimis and certainly not overbearing in the context of the building itself.

Mr. McDonough reviews the Awning sign, stating the length of the awning sign being more than 1/3 of the width of the Awning itself. We are looking for about 80% of the width. From a Planning standpoint, the size of this awning sign is not much different than Retro Fitness...

Parking Variance is discussed....

Mr. McDonough speaks to the Applicant's request for the parking variance. He notes, under the strict definition of a medical office use the Borough code requires 167 parking spaces, explains...from a planning aspect, the proposed Dialysis facility can function with the 95 spaces proposed & stressed this Land use is a very low parking generator.

Mr. McDonough in finishing his testimony notes in his opinion he feels this is a good application which fits well within the building, within the context of the site & the neighborhood and within the planned vision of the community as a whole.

Mr. Meer asks if anyone from the Board has any questions for this witness.

Mr. Lowenstein (Board Member) asks how a visitor would not get confused with the Dialysis center located at 18-01 Pollitt & 15-00 Pollitt.

Mr. McDonough notes Mr. Lowenstein concern & states he does not see an address with the signage and it may be something they have to consider introducing into the signage package....

Mr. Lowenstein directs his question to Mr. Maltz, (Applicant's Traffic Consultant) and asks...has he done any analysis of the route the patients would take to get to 15-00 Pollitt?

Mr. Maltz gives his opinion on what he considers would most likely happen when going to the site....explains. Mr. Maltz stresses no matter how it works out, they are dealing with very small numbers.

Mr. Lowenstein has concerns and asks whether the applicant would consider an additional free standing monument sign along the easterly ingress/egress drive along Pollitt Drive and reduce the size of the proposed monument sign located at the ingress only drive at the westerly drive, as well as the size of the main building sign...

In response, Mr. McDonough after review with the Attorney & their Client agreed to amend the application to reduce the proposed lettering of the wall mounted sign facing the main parking field to a maximum sign height of 36inches...

Discussion continues.....

The Applicant also agrees to provide two free standing monument signs with a maximum height of 36inches consisting of 2ft high pedestal indentifying the address of the building and a one foot sign located atop for identification of DaVita set back 10 ft. as required...

Mr. Meer asks Mr. Van Den Kooy (Board Planner) if he has any questions.

Mr. Van Den Kooy would like clarification on a 2nd Monument sign...

Mr. McDonough notes if this triggers a variance he would couch this within the domain of a C2 variance as well, benefits vs detriments.

Discussion.....

Ms. Rubright notes the Board Engineer did classify this under the Ordinance as a corner lot, so the question would be; do we need a variance or do we not need a variance for a 2nd Monument sign if in fact this is a corner lot with two frontages....

Mr. Azzolina (Board Engineer) notes as far as the Sign Ordinance requirements he is not sure what that would be, but it certainly is a corner lot....explains...

Discussion continues.....

Ms. Peck (Assistant Zoning Officer) notes to the Board...if they were to use the height of 36inches it would be in conformance with the Highway District.....

Discussion continues....

Mr. Lowenstein asks would the applicant be agreeable with the sign on the southern façade be kept to 36 inches.

Ms. Rubright answers for her client. Yes.

Discussion continues....

Suggestions for signage are discussed....

Mr. McDonough after review with the applicant states what they are willing to do is put an address sign matching the scale of what is depicted in frame #6 with a 1ft. cap on top that would state DaVita Dialysis.

Discussion & review continue....

Ms. Rubright notes her client has indicated they really do need the Monument sign for the right in. It is effectively a corner lot, and an entrance in...they do like the suggestion of the Monument sign on the other entrance and they have agreed to reduce the letters to be 36inches topped. In terms of the height of the Monument signs, we could work with the Board certainly at the main entrance, we probably don't need as much height, but we do need to exceed the 2ft.

Mr. Dunay (Board Member) states Pollitt Drive is one of the craziest streets in the town. The applicant is being quite reasonable in respect to their willingness to deviate from the original plan of the respective signs. He is inclined to say the current proposal is reasonable...

Discussion continues...

No further questions for this witness.

Ms. Rubright would like to clarify the sign package they are requesting just to be sure before the motion is made.

Mr. McDonough notes for clarification....

1. In terms of the free standing signs, we are looking for two signs, one at each entranceway. 10ft. setback from the requirement.
2. 2ft high Street, address sign, plus another 1ft. for the identification of the Facility itself, for a total of 3ft height, where 2ft is the requirement. 1ft. high variance at the main entrance.
3. On the Northern Pollitt Drive, there has been no change to the proposal.
No further questions...

Mr. Meer opens the application to residents within 200ft. for questions or comments.
Seeing none,

Mr. Meer closes this portion.

Mr. Meer opens the application to the General Public. Seeing none,
Mr. Meer closes this portion & asks for a motion.

Ms. Rubright has a few words in favor of the application....thanks the Board for their time.

Mr. Rosenberg would like it put on record, the applicants Lease hold includes the building as well as 95 dedicated parking spaces.

Mr. Lowenstein makes a motion to approve the application with conditions...reads.

Ms. Rubright notes the relief they were requesting for the Monument sign at the Northerly end was as proposed. It was not going to be the same height as the main entrance...given the location.

Mr. Lowenstein reiterates the proposal he set forth, the reason being, by consent, without contradiction, there is going to be more traffic coming from the Southern end. It seems to me that much stronger an argument, the Northern side be no larger than the Southern side, since it will be the secondary entrance instead of the primary entrance.

Ms. Rubright withdraws her comment.

Mr. Lowenstein states subject to all the conditions he will make the motion for approval.

Mr. Dunay would like to second the motion, with a few requests. One being the applicants submit a corrected Site plan to the Board Engineer providing a point by point analysis of lightening...and also to correct the site plan showing the Monument signs being 10ft. back from the roadway. Also the applicant submits any other remaining points of the Board Engineer's report including confirmation of drainage runoff at the site, being sure it is not running into the neighboring site.

Mr. Dunay mentions the waivers the applicant required on topic graphical drainage, soil types...

Mr. Rosenberg states this is normally included in the Resolution...

Mr. Lowenstein accepts & amends his own, notes all requirements of the Borough & the County, State & Federal, as applicable be incorporated into the application.

Mr. Dunay seconds the motion.

VOTE: Mr. Dunay, Mr. Sacchinelli, Mr. Lowenstein, Mr. Seibel, Mr. Gil, Mr. Sina,
Mr. Meer, **YES.**

Motion carries.
Application Approved.

Adjourn

Mr. Sina made a motion to adjourn this meeting and Mr. Gil seconded the motion.

TIME: 10:35 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk

Adjourn

*****made a motion to adjourn this meeting and *****seconded the motion.

TIME: *****P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk