

September 22, 2023

Sent Via Hand Delivery & Email (pbzba@townofclinton.com)

Hon. Paul Thomas, Chairman and
Town of Clinton Planning Board Members
1215 Centre Road
Rhinebeck, NY 12572

***Re: Medical Arts Sanitarium, Inc. d/b/a/
Cornerstone of Rhinebeck (“Cornerstone”)
73-93 Serenity Hill Road, Clinton, NY (“Property”)
Parcel Identification No.: 6469-00-531763 & 617725
Application for Site Plan Approval & Special Use Permit (“Application”)***

Dear Chairman Thomas and Members of the Planning Board:

In furtherance of the above-referenced Application, enclosed please find a comprehensive response letter to the comments provided on behalf of the Board by CPL, dated July 6, 2023 (“CPL Comment Letter”), together with supporting attachments. Cornerstone respectfully requests that a special work session be scheduled at the Board’s earliest convenience to discuss the technical issues addressed therein.

In addition, we are in receipt of the August 7, 2023 letter from Van DeWater and Van DeWater to the Board (“Neighbors’ August Letter”), submitted on behalf of “certain neighbors” of Cornerstone’s Property (“Neighbors”). The letter essentially raises two issues, which the Neighbors claim should preclude the processing of the instant Application to increase the resident population of the Facility. Specifically, the Neighbors argue that the Application should be denied because Cornerstone is purportedly attempting an “improper expansion of Cornerstone’s ACF nonconforming use by including the adjoining smaller lot and Building B in the Application.” (Neighbors’ August Letter at 4). For the following reasons, the Neighbors’ arguments are baseless and must be rejected.

Inclusion of Parcel I Is Proper and Legally Required

As shown on the enclosed Existing Conditions Site Plan, last revised September 12, 2023 (“Site Plan”), the Property comprises two lots: Parcel 6469-00-617725 (“Parcel I”) and Parcel 6469-00-531763 (“Parcel II”). Parcel II contains the Facility and related improvements. Parcel I, referred to by the Neighbors as the “smaller lot,” is unimproved, except for certain utilities. Importantly, the access drive that serves the Facility from Milan Hollow Road also necessarily traverses Parcel I. This access drive is, and has historically been, the *only* access to a public road since Parcel II is otherwise land (and water) locked.

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The purpose of the instant Application, besides seeking retroactive approval of the Facility's increase in resident population, is to memorialize the existing site conditions.¹ For that reason, it is not only permissible for Cornerstone to show Parcel I on the Site Plan, but it is legally necessary in order to depict the entire Property and use. There would be no record memorializing the location of the access drive to the Facility if only Parcel I were to be shown. In fact, the CPL Comment Letter expressly *requires* that Cornerstone “[p]rovide a plan set with 2 sheets at the required scale of equals 50 feet (1”=50’), with 1 sheet showing the entire site (parcels 531763 & 617725) and the second sheet focusing on parcel 531763, the lot with all of the buildings.” (CPL Comment Letter at 3, ¶ 16(a)). Importantly, this interpretation was also confirmed by the Town Zoning Administrator in a determination letter, dated August 29, 2023.

The Neighbors also seem to rely upon Parcel I being classified in the tax rolls as a “rural vacant lot,” whereas Parcel II “remains zoned under land use class as ‘642 Health Bldg’.” (Neighbors’ August Letter at 1-2)). It is unclear what connection the Neighbors are attempting to make between the assessment property class and the inclusion of Parcel I on the Site Plan. The Neighbors appear to be conflating zoning classifications with the assigned property class for tax assessment purposes. Regardless of the property class assigned to the respective Parcels for tax assessment purposes, both Parcels are, and will remain, in the Conservation Agricultural Residential District.

Notwithstanding the foregoing, if, for some reason, the Board agrees with the Neighbors that Parcel I should not be included in the Application, then the result would not be the denial of the Application. Cornerstone would simply revise its Application and Site Plan to eliminate Parcel I. However, Cornerstone submits that to do so would be nonsensical.

Building B Is Properly Included on the Site Plan

The Neighbors next argue that Building B should not be part of Application because it was previously used as a full-time residence. Presently, there is no site plan approval for the Property. Again, through the Planning Board process under Zoning Code Section 250-31, Cornerstone is memorializing the existing use of the Property.

Building B is presently used by Cornerstone for occasional training of existing staff, and for temporary lodging of staff when, for example, extreme weather makes travel dangerous. Not

¹ Although irrelevant to the Application, the Neighbors incorrectly characterize Local Law No. 1 of 2023 (amending Zoning Code Section 250-31 to, *inter alia*, require the instant Application and mandating a 50% cap on the increase in resident population), as permitting Cornerstone “to continue to operate at an expanded use in violation of the Town Zoning Law and to the detriment of the town property owners and neighbors.” (Neighbors’ August Letter at 2, n.1). The Neighbors also argue that Cornerstone was “intricately involved in propelling the Local law to suit its purpose.” (*Id.*). To the contrary, Section 250-31 now provides this Board with oversight of the Facility, and approval of the Application would bring the Facility into conformance with Section 250-31. It does not somehow allow Cornerstone to operate in violation of the Zoning Code. Moreover, the public – including the Neighbors – had the opportunity to be involved with the drafting of the Local Law, including having their comments heard at *two* public hearings; indeed, the 50% cap was a direct response by the Town Board to *the Neighbors’* input into the Local Law.

only does that ensure the safety of the staff, but it also ensures that there are staff members on site 24/7. Cornerstone’s use of Building B is a customarily incidental and subordinate use to an ACF. It in no way changes the character of the ACF use. As such, the use of Building B is a permitted accessory use. *See Zoning Code § 250-105* (defining “accessory use”).

It is well-established that even where a property is a preexisting nonconforming use, the “property owner is allowed to have an accessory use of the property so long as such use is ‘truly incidental to the nonconforming use and does not change the basic nature of the use of the property.’” *Androme Leather Corp. v. City of Gloversville*, 1 A.D.3d 654, 656 (3d Dep’t 2003) (citation omitted); *see also Gauthier v. Vill. of Larchmont*, 30 A.D.2d 303, 305 (2d Dep’t 1968) (holding that a preexisting nonconforming hotel was permitted to resume the sale of liquor after the use ceased for six years, because liquor sales is a customary and incidental accessory use to a hotel, and the use did not result in a fundamental change in the nonconforming use of the property).

The Neighbors fail to establish that the use of Building B for occasional training of Cornerstone’s ACF staff, and for temporary lodging of staff in emergency situations, somehow changes or enlarges the basic nature of Cornerstone’s ACF use, or that the use is not a customary and incidental accessory use that is subordinate to the principal use as an ACF.


CONCLUSION

Based upon the enclosed documentation, together with all prior submissions, Cornerstone submits that there is no empirical evidence that the increase from a maximum of 66 beds to 96 beds in 2006, or to 99 beds in 2016, resulted in any significant adverse impacts to the surrounding neighborhood, and that its Application pursuant to Section 250-31 should be granted. Cornerstone thus respectfully requests that a work session be scheduled at the earliest possible date, and for a continuation of the Public Hearing to be scheduled shortly thereafter.

We look forward to answering any questions the Board has at the work session. If you have any questions in the interim, or require any additional information, please do not hesitate to contact the undersigned. Thank you for your consideration.

Respectfully submitted,

ZARIN & STEINMETZ LLP

By: 
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cc: (via email)
CPL
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