

**TOWN OF CLINTON
PLANNING BOARD INPERSON MEETING
FINAL MINUTES
April 19, 2022**

MEMBERS PRESENT

Art DePasqua, Chairman
Jack Auspitz
Tom Bonanno
Gerald Dolan
Justin Carroll

Paul Thomas

MEMBERS ABSENT

Michael Galantich

Secretary – Arlene Campbell

ALSO PRESENT

Eliot Werner, Liaison Officer

Chairman DePasqua called the meeting to order at 7:30 pm. The board welcomed the new board member, Tom Bonanno who took over Ms. Maxianova's seat.

VARIANCE APPLICATION:

None

PUBLIC HEARING:

Shamdasani Special Permit for Non-Hosted STR – property located at 246 Clinton Ave Salt Point NY, **Tax Grid No. 6366-00-843102.**

Applicant wishes to operate a Non-Hosted Short-term rental to a one single family dwelling.

Ms. Shamdasani appeared and explained that she and her husband recently purchased this property as a second home. They love this home and wish to do short term rental when they're not up here to supplement some income to offset their expenses.

Mr. Auspitz motioned to open the public hearing, seconded by Mr. Carroll, all Aye, Motion carried, 6-0.

Chairman DePasqua asked for questions and comments from the public. Hearing none, the board motioned to close the public hearing.

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Mr. Carroll motioned to close the public hearing, seconded by Mr. Auspitz, all Aye, Motion carried, 6-0.

APPLICATION:

Reshma Shamdasani Special Permit for Non-Hosted STR - 246 Clinton Ave
Salt Point NY Tax Grid No. 6366-00-843102.

Applicant wishes to operate a Non-Hosted STR to a one single family dwelling.

The board discussed the application.

Mr. Carroll gave a recap of what had transpired at the previous meeting. He explained that the only item missing is the property manager's name and address. The newly submitted contact info is a company from Long Island. He suggested having a local property manager who can be around in case of emergency. The board agreed to include this as a condition to the approval.

Mr. Carroll stated that although the house is listed as five bedrooms, the septic tank is only 1,000 gallons which is only capable of handling a 3-bedroom house. He suggested giving an approval of 6 transients and 6 daytime visitors.

The board agreed to pass a resolution.

Mr. Carroll motioned the following:

Be It Resolved that the Town of Clinton Planning Board approves the Shamdasani NonHosted STR on property located at 246 Clinton Avenue, Tax Grid No. 6366-00-843102.

Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Reshma Shamdasani for the purpose of utilizing a principal residence ("Dwelling Unit") located at 246 Clinton Avenue in the Town of Clinton as a Non-Hosted Short-Term Rental pursuant to Section 250-69.1 of the Zoning Law; and

Whereas, the subject property is identified as tax parcel number 132400-6366-00-843102 and is located in the AR5 Zoning District; and

Whereas, the applicant does not propose any alteration, excavation or construction on the site in connection with the requested permit; and

Whereas, the applicant has submitted an inspection report, dated within ninety days of the date of the application, stating that the existing sewage

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disposal system serving the Dwelling Unit is a 1,000 gallon concrete tank in good working order at the time of inspection; and

Whereas, a Short Form EAF, Part 1, has been received and reviewed; and

Whereas, the Planning Board has determined that the proposed action will not have a significant adverse impact on the environment based on the criteria set forth in 6 NYCRR 617.7(c) and qualifies as a Type II action under SEQR (6 NYCRR 617.5(c)(18) (“reuse of a residential or commercial structure”)); and

Whereas, the Planning Board conducted a public hearing during its regular meeting on April 19, 2022; and

Whereas, the Zoning Administrator has inspected the Dwelling Unit and certified that it is in compliance with the permitting requirements set forth in Section 250-69.1 for use of the Dwelling Unit as a Non-Hosted Short-Term Rental and that there are no known zoning violations on the property; and

Whereas, the Dutchess County Department of Planning and Development has stated that an STR application is “a matter of local concern”; and

Whereas, the Planning Board has determined that the maximum number of Lodgers allowed shall be 6 adults and the maximum number of daytime visitors permitted on the property shall be 6 persons; and

Whereas, after review of the application and all other submissions by the applicant, the Planning Board has determined that the application and Dwelling Unit are otherwise in compliance with the requirements of Section 250-69.1; and

Whereas, this Special Use Permit shall remain in effect for one year from the date of approval by the Planning Board and shall require annual renewal by the Planning Board, upon timely request by the property owner pursuant to Section 250-69.1D(4), no later than the anniversary of such issuance; and

Whereas, the applicant shall ensure that the Dwelling Unit complies with the requirements of Section 250-69.1 at all times while it is being utilized as a Non-Hosted Short-Term Rental and shall otherwise comply with applicable Town, County and New York State law and regulations governing such use; and

Whereas, all applicable fees have been paid:

Now Therefore Be It Resolved, that the Planning Board hereby grants approval of the requested Special Use Permit, effective as of the date of this resolution, subject to receipt from the applicant of the physical address of Ms. Anne Rillett, the local property specialist for StayMarquis.

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MAXIMUM NUMBER OF LODGERS PERMITTED: 6 adults

PERMIT REMAINS IN EFFECT UNTIL 4/18/2023 (SEE SECTION 250-69.1D(4) FOR ANNUAL RENEWAL PROCEDURE)

Seconded by Mr.Dolan,

Discussion. Chairman DePasqua advised the applicant about the yearly renewal of the Short-Term Rental permit.

All Aye, Motion carried, 6-0.

Francois Non-Hosted STR – property located at 17 Schoolhouse Road, Tax Grid No. 6467-00-043348.

Applicant proposes to do NonHosted Short Term Rental on a property that is in the Hamlet.

Eric Francois appeared for his application. He explained that they bought this property in 2014. They recently bought another property in Pennsylvania and as a result will not be able to come up here often. They would like to use this property as Short Term Rental when they're not around.

Mr. Auspitz indicated the draft resolution that Mr. Galantich had prepared. He asked the applicant about the missing document (Additional insurance in the amount of \$1M) from the submission. He also asked about the sketch plan showing the driveway and the proposed parking.

Mr. Francois responded that these additional documents were submitted. Ms. Campbell affirmed.

Mr. Bonanno asked the applicant if he submitted the hotel certificate county tax. Ms. Campbell noted that this document was included in the previous packet.

The board agreed to declare the lead agency.

Mr. Auspitz read the draft resolution prepared by Mr. Galantich, to wit:

Mr. Auspitz motioned that the Town of Clinton Planning Board approves the following resolution, to wit:

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Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Eric Francois for the purpose of utilizing a principal dwelling located at 17 Schoolhouse Rd, Staatsburg NY, as a Non-Hosted Short-Term Rental pursuant to Section 250-69.1 of the Zoning Law; and

Whereas, the subject property is identified as tax parcel number 132400-6467-00-043348-0000 and is located in the H Zoning District and Agricultural District 0; and

Whereas, a Short Form EAF, Part 1, has been received; and

Whereas, the applicants do not propose any alteration, excavation or construction on the site in connection with the requested permit; and

Whereas, the Zoning Administrator has inspected the property and, in his letter to the applicants dated March 24, 2022 certified that it is in compliance with the permitting requirements set forth in Section 250-69.1 for the use of the parcel as a Non-Hosted Short-Term Rental within the Town of Clinton; and

Whereas, a septic inspection report was received, dated within 90 days of the date of the application, stating the septic system, including a 1,000-gallon septic tank, was adequately functioning at the time of the inspection; and

Whereas, all applicable fees have been paid; and

Whereas, the Planning Board has determined the proposed project is an Unlisted Action and that an uncoordinated review of the action will be undertaken:

Now, Therefore Be It Resolved, the Planning Board determines that the application is sufficient for purposes of commencing the selection of a Lead Agency pursuant to 6NYCRR 617; and

Be It Further Resolved, that the Planning Board hereby declares its intent to assume the role of Lead Agency for this unlisted, uncoordinated action pursuant to Article 8 of the Environmental Conservation Law and Sections 617.6 (2) and (3) of 6 NYCRR Part 617 and directs that a copy of the Short Form EAF Part 1, the application and related documents be sent to the following interested agencies: West Clinton Fire District; Town of Clinton Highway Department; Dutchess County Department of Planning and Development; and

Be It Further Resolved, that the Planning Board will hold a public hearing on this application at its meeting scheduled for May 3, 2022, under the following **condition**:

1. The applicant is required to show proper insurance coverage (\$1M)

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Seconded by Mr. Bonanno,

Discussion. None.

All Aye, Motion carried, 6-0.

Mershon Demolition Plan Approval – property located at 269 Nine Partners Road, Tax Grid No. 6468-00-930822.

The applicant proposes to demolish and replace the existing guest cottage.

Kevin Halton and the project manager, Sal Triano from Crossland Engineering PLLC both appeared on behalf of the property owners.

Mr. Halton explained the demolition permit that they received that was originally intended for interior demolition. He noted that they had to remove the whole building during the process given the poor condition of the building. He acknowledged that the newly designed cottage was increased in size and apologized for overstepping the boundaries.

Mr. Triano, who designed the proposed cottage, explained the engineering structure of the building. He indicated the initial inspection of the building that resulted in more and more decay as they opened up walls of the building. After meeting up with the property owners, it was agreed that it was practical and economical from the building structural standpoint to demolish the whole building that was built in the 70s. He also apologized for overstepping the bounds and for not getting the proper permit.

Mr. Carroll made a recap of what had transpired at the previous meeting and why there was no action taken at that meeting. Two demolition plan applications (guest cottage and barn) were proposed at the January meeting. The demolition approval for the barn was granted.

Mr. Carroll explained the reason why the guest cottage demolition process was paused was because the new guest cottage was 500 square feet larger than the existing structure. This is also larger than the allowed 1,000 square feet accessory dwelling per the regulation. The applicant was asked to speak with the Zoning Enforcement Officer whether to get a variance or limit the square footage to the original footprint. The applicant is now back before the board with a new plan limiting the square footage to the original footprint of the guest cottage. He noted that there will be no variance required and they can proceed with the demolition process approval.

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Mr. Bonanno asked the applicant if this is a three-bedroom home becoming four. Mr. Triano responded that there will be no change in the number of bedrooms. It will remain three bedrooms as the original floor plans.

Mr. Bonanno asked about the demolition versus the renovation project. He asked, "Was this supposed to be a renovation project that became a demolition?"

Mr. Triano responded, "Yes, they originally proposed to demolish the interior walls and renovate the house." He added that this was a house that was built with a small crawl space so water accumulated that caused decays.

Mr. Bonanno asked if they are still maintaining the same crawl space. The applicant responded that the new guest cottage will now have a full concrete foundation and a full basement.

Mr. Bonanno asked if there will be changes to the septic. The applicant responded that there will be no changes to the septic.

Ms. Campbell noted that the guest cottage predates the zoning.

After all the deliberations were made, the board passed a resolution.

Mr. Carroll motioned the following:

BE IT RESOLVED, that the Town of Clinton Planning Board recommends approval of the Demolition Permit application dated January 11, 2022 submitted by **Jacob Angell** of Halton Construction, Inc. on behalf of property owner William Mershon 2012 Irrevocable Grantors Trust for the purpose of demolishing an accessory dwelling structure located on a 64.1 acre parcel at 253-269 Nine Partners Road, Clinton Corners, **Tax Grid 132400-6468-00-930822** and refers this matter to the Building Inspector for review and approval of the demolition plan.

WHEREAS:

1. This application pertains to an accessory dwelling that was a guest house that the applicant states is from the 1970s. The applicant pulled a selective demolition permit in May 2021 with the intention of renovating the guest house with a small addition, however it was discovered during the course of the work that the foundation was not sound and there was extensive rot, so the structure was demolished.
2. The structure did not appear on the Historic Resource Survey of 1986 located on Dutchess County Parcel Access and the applicant states that

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the structure does not have any national, state or local designation of significance nor are there any for the parcel on which it is located.

3. The applicant has already demolished the structure and, at the time of the application, had already poured a new foundation and framing was underway. As stated in a letter and updated application dated April 14, 2022, the new guest house will be the same size as the old guest house at 1,893 square feet.
4. A completed Environmental Assessment Form has been submitted.
5. The Planning Board has reviewed the application with regard to the requirements of Section 250-93 of the Zoning Law and determined that the buildings have no historic value.
6. All appropriate fees have been paid and the Planning Board has received a Consent of Authorization to Act from the property owner for Jacob Angell and Halton Construction, Inc.

NOW, THEREFORE BE IT RESOLVED, that the Town of Clinton Planning Board recommends approval of the Demolition Permit application and refers the matter to the Building Inspector for further action consistent with the Town Zoning Law.

Seconded by Mr. Bonanno,

Discussion. None.

All Aye, Motion carried, 6-0.

PUBLIC HEARING:

Medical Arts Sanitarium Inc. d/b/a Cornerstone of Rhinebeck's application pursuant to Section 250.31 (B)(5) (Alternate Care Facility) of the Town of Clinton Town Code seeking Site Plan and Special Permit approval for property located at 73-93 Serenity Hill Road, **Tax Grid No. 6469-00-531763.**

Sec. 250-31 (B) (5) (Alternate Care Facility) of the Town of Clinton Town Code states:

Any increase in the resident population, change in type of population, and/or any expansion of the facilities shall require application to the

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Planning Board for consideration of a new special use permit and shall require re-examination of the site plan by the Planning Board.

Chairman DePasqua recused himself for this application and passed the floor to the deputy chair.

Deputy Chair Thomas thanked the Chair and welcomed the crowd. He gave a special acknowledgement about the presence of the Town Supervisor. Shane Egan, the town attorney was also present. Duly noted is a very large crowd (estimated 150 people) appeared for the public hearing. Kyle Barnett, neighbors' legal counsel, was also in the crowd.

Warren Replansky along with his team, Emily Svenson, an attorney from Gordon and Svenson LLP, Michael Purnell, Cornerstone Executive VP, Jeffrey Oneifather, Cornerstone's Chief Financial Officer and David Bochner, EVP of Cornerstone Operation, all appeared for the Cornerstone.

Deputy Chair Thomas indicated the procedural process for this public hearing. He stated that the public hearing will be opened and Cornerstone will do the presentation. Anybody who wishes to inspect the documentation can do so during the office hours. The board will not vote at this meeting. There will be another public hearing set aside from this meeting to give everybody a chance to speak and for those people who cannot attend this meeting. People who wish to speak at the public hearing will be limited to three minutes and will only speak once at this meeting to give everybody a chance to speak. All comments should be addressed to the board and not to the Cornerstone representative nor to the audience. Comments can also be submitted via email and be part of the review as long as the public hearing is still open. The board will not respond to all these comments. This doesn't mean that the board doesn't hear the public, the board is there to listen and not to speak. He also asked the public to be civil and not to react nor interrupt someone who is speaking.

The board opened the public hearing.

Mr. Auspitz motioned to open the public hearing, seconded by Mr. Carroll.

Discussion. None.

All Aye, Motion carried, 5-0.

Mr. Replansky introduced his team and made his presentation. He stated that Cornerstone is a fully licensed chemical dependence alcoholism and substance abuse facility located on approximately 40 acres of land in two parcels of Milan Hollow Road. Its license includes but it's not limited to a chemical dependence

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operating certificate from the NYS Office of Alcoholism and Substance Abuse Services known as OASIS.

Mr. Replansky continued that Cornerstone has applied to the Planning Board for a retroactive approval of an increase in its maximum patient population from 66 to 99 patients. The increase in population occurred in several increments as demonstrated by the application that was submitted from October of 2001 through October of 2016. Each one of these maximum increases in population was submitted to and reviewed by OASIS and the Dutchess County Department of Health.

Mr. Replansky stated that Cornerstone was not aware until very recently that the town officials believe that these increases in population also required the approval of a special permit and site plan by the Town of Clinton Planning Board pursuant to the Alternate Care Facility Section of the Town Regulations.

Mr. Replansky stated that this application seeks to remedy the situation in seeking retroactive approval for the increase in population. They are not seeking approvals for any additional infrastructure or buildings on the site.

Mr. Replansky stated that Cornerstone has been a good neighbor during its 25 years of operation. There has not been a single incident that they are aware of any resident of the facility being arrested or charged with a crime while attending the program nor Cornerstone received a single notice of violation from the Town except for the recent notice that they needed to apply for, i.e. increase in the population.

Mr. Replansky stated that Cornerstone is now a 100 percent employee-owned corporation and is in good standing with the State of New York. If Cornerstone has been formed as a non-profit and operated as a not-for-profit under the New York State Real Property Tax Law, Mr. Replansky said Cornerstone would be entitled to a tax exemption.

Mr. Replansky underscored that Cornerstone does not have any tax exemption. They pay their full share of taxes and noted that Cornerstone paid \$70,000 total taxes in the last year.

Mr. Replansky discussed environmental concerns. Although Cornerstone abuts Silver Lake, Mr. Replansky noted that none of the Cornerstone buildings or infrastructure are within the wetlands of that lake or within the wetlands buffer. He stated that for a total of 40 years, there has not been a single notice of any adverse environmental impacts or violation of the environmental conservation law given the use of the facility for the past twenty-five years as well as its predecessor, The Rhinebeck Lodge for Successful Living which was also a Drug Dependency and Alcohol Rehab Center which operated for 15 years.

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Mr. Replansky continued that Cornerstone sewage disposal system and water supply are fully approved and licensed by the Dutchess County Department of Health. This documentation was submitted as part of their application as requested by the town engineer. All these permits are valid and up to date. He noted that the current usage at the premises does not exceed the permit limits.

Mr. Replansky stated that the current and several former Zoning officers have determined that Cornerstone facility is a legal pre-existing non-conforming use. These zoning officials have properly determined that the use of the facility can continue even though it is non-conforming, subject to certain application requirements under the Alternate Care Facility law.

Mr. Replansky indicated the recent determination by the current new Zoning Enforcement Officer. He noted that Cornerstone was not aware of the need to apply to the town for the increase in population and fully believed that they did not have to repeat the process at the local level given the complexity of the application and approval process that they've been through the Department of Health and OASIS.

Mr. Replansky explained that they are now before the board seeking retroactive approval. This is the only pending application before the board. The NYS code rules and regulations contain detailed and complex requirements for submissions to OASIS each time a facility seeks to increase its maximum population. He emphasized that when they're talking about an increase in population, they are talking about the increase in maximum population. It does not mean that the facility always operates at a maximum capacity. The population at any given time is subject to a wide variety of factors and most recently, COVID has affected that.

Mr. Replansky indicated the real need for these types of facilities in a community, in Dutchess County and in NY State as evidenced by a letter of support that they have submitted to the board in favor of the facility and its operations. He indicated the letter from the Dutchess County Office of Addiction Services and reports verifying the need for this facility and the need to continue to operate. He noted that OASIS has confirmed that there has been no change in the types of services provided to Cornerstone's patients. Over the years, Cornerstone has always and still does provide medically supervised inpatient withdrawal and/or detoxification Services. The same services were provided by Cornerstone's predecessor.

Mr. Replansky discussed the recent determination by the Zoning Enforcement Officer dated April 1, 2022. He stated that the increase in Cornerstone's maximum capacity from 66 to 99 beds over the last few years did not constitute an impermissible enlargement or extension of its pre-existing nonconforming use. He also underscored that there was no increase in population since 2016.

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Cornerstone employs a total of 86 full-time and part-time employees. He noted that most of these employees are from the Town of Clinton and surrounding municipalities in Dutchess County.

Mr. Replansky explained that the patients at Cornerstone average a stay of 14.4 days in the past 12 months. Approximately 56 of the patients were from Upstate NY. The number of employees at the site varies from day to day and is usually much less than 86.

Mr. Replansky commented that contrary to the misinformation that has recently disseminated to the public, Cornerstone is not an alternative to incarceration or judicial diversion program, however, Cornerstone does cooperate with the courts and the divisions of parole and probation as appropriate to its patient's history.

Mr. Replansky opined that these same sources have disparaged CARF (Commission on Accreditation of Rehabilitation Facilities), an independent non-profit organization focused on advancing the quality of services for a drug treatment facility to achieve the best possible outcome for its patients. Cornerstone is proud to have been certified by CARF.

Mr. Replansky remarked that the same unidentified souls' sources have falsely and shamelessly claim that Cornerstone is a facility which specializes in the treatment of sex offenders. He underscored that this is patently untrue! Pursuant to Federal and NYS Law, OASIS and OASIS regulations, a medical treatment facility such as Cornerstone is prohibited from discrimination against a prospective patient on the sex offender registry.

Mr. Replansky noted that Cornerstone does not have any sort of policy of inclusion of registered sex offenders in their program. This information has been confirmed by OASIS in the materials that was submitted to the board. As far as they know, there has not been a single incident in the last 25 years of operation (and he assumed that during the Rhinebeck Lodge's 15 years of operation) in which a patient at Cornerstone has been arrested or charged with any offense whatsoever, much less a charge relating to sexual offense.

Mr. Replansky stated that Cornerstone vigorously regulates the activities of its population. Patients are required to adhere to a strict set of rules and regulations concerning their conduct. Patients are not permitted to go off-site and as a result there have been no incidents that they are aware of except for the recent notification of the need to make this application to the Planning Board. He added that there has not been a single notice of violation from any of the previous ZEOs apropos Cornerstone operation except as the recent notice that brought them before this board.

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Mr. Replansky stated that pursuant to the approvals by OASIS, the maximum residential capacity increased from 66 to 99 gradually during the period of October 2001 to 2016. He reiterated that there has been no increase in the maximum allowable patient capacity since 2016. The current infrastructure has a sufficient capacity to accommodate these increases in population without the necessity to construct additional buildings or structures.

Mr. Replansky commented that although Cornerstone has paid a total of \$70k in the last tax period, Cornerstone facility and its population do not utilize the services of the school districts nor does Cornerstone rely on any municipal services other than the Highway Department, Police and Fire Department. Cornerstone serves the Town of Clinton.

Deputy Chairperson Thomas thanked Mr. Replansky for his presentation and open comments from the public.

Kyle Burnett from VanDeWater and VanDeWater LLP, neighboring properties' legal counsel spoke and indicated the neighboring properties' concerns. As mentioned earlier by Mr. Replansky, a special use permit is to expand the bed capacity of the Cornerstone facility increasing from 66 to 99. This is a mere formality at this point as Cornerstone has already taken upon itself to engage in that expansion over the years. He stated that he wasn't sure how recent Mr. Replansky was referring to in terms of when Cornerstone was aware that the expansion in beds would be in violation of the town code. His understanding was --there are letters from the prior Zoning Enforcement Officer way back to 2005 informing the applicant that the expansion of the facility, particularly in the number of beds would in fact violate the town code. This is not something that has been a secret. It's actually been something that Cornerstone must have been aware of for many years.

Mr. Burnett agreed about Mr. Replansky's statement that it is true that it wasn't until August and November of 2021 that the previous ZEO cited the applicant with violations of Sec. 250 31-B-5 which is the expansion. Mr. Burnett believes that there are some zoning issues but these will be addressed with the Zoning Board of Appeals. The current issue that is central to the Planning Board is that the town code prohibits the Planning Board from issuing special use permits while there is an existing violation.

Mr. Burnett commented that even though the ZEO may have directed Cornerstone to obtain a special use permit from the Planning Board, that doesn't mean that the applicant can continue the violation. He indicated his disagreement about the ZEO's decision. He said that even if that was the ZEO's intention, Mr. Burnett opined that the ZEO doesn't have the authority to do that. The ZEO can't simply say – "You don't have to comply with this particular section of the code!" Mr. Burnett stated that the only one who can change the town code is the Town

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Board. Nobody that he is aware of, from a legal perspective, would have the authority to override this section and permit a special use permit while there is an existing violation. He underscored that there is in fact an existing violation! Cornerstone was issued a violation notice and this was acknowledged by the applicant.

Mr. Burnett stated that there is no authority to issue a special use permit until Cornerstone comes into compliance. The question is – “How do they come into compliance?” He said, “Well, it’s fairly simple. You just simply go back to the existing use, i.e. the number of population that existed before the illegal expansion.

Mr. Burnett opined that there are some zoning issues but the concern is – if the special use permit is issued in contravention of the town code it could raise certain challenges later on. He also indicated the concern about setting precedence. Anybody can just simply violate the town code and seek the necessary approvals after. He remarked, “This is setting a bad precedent!”

Kathy Aldrich, Case Counselor at Cornerstone spoke saying she didn’t want to talk about the zoning. She spoke about why she worked there for 21 years. She didn’t mean to offend anybody if there’s anybody in the public who has a problem about God or the bible. She said God does not despise the broken nor should we, rather, we are to imitate the one who came to seek and to save the lost as we once were, no matter what type of bonds enslave. She read a scripture of the bible.

Jane Dworkin who worked at Cornerstone for 7 years spoke proudly of Cornerstone. She indicated her master’s degree in social work and credentials in alcohol substance abuse counselor certification also known as CASAC certification. She indicated her experience working with the patients. She addressed the public about understanding the importance of Cornerstone given the world we live in today.

Bertha Bishop from Cornerstone took the floor and said everyone in the room who has a Cornerstone badge should be proud. She indicated what they do for the people who come to them for help. It doesn’t matter what color of skin you have, whoever you are, they help them. She asked, “If you had a child with addiction, wouldn’t you want a place like Cornerstone?”

Amber from Millerton spoke and said that she is a licensed social worker, a summa cum laude at Suny Oneonta who got her master’s degree from Fordham University. She shared a story of his father who became a victim of the opioid

and was unable to recover from that addiction. This motivated her to become a social worker. She wants to be there for her dad and to be the person who could

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advocate for them, to be the person who encourages them to give them a second chance. She remarked, "We're only human!" She said that her heart hurts for them and asked the board to see that compassion.

A lady who did not indicate her name thanked the board for having this forum. She wanted to dispel the notion that she was trying to get rid of Cornerstone. She remarked, "This is absolutely 100% not true!" She lived in the Town of Clinton for four years and their home is about 200 yards of the Cornerstone. They purchased their home knowing that Cornerstone was there. She indicated her experience at age 11 with a stepfather who had cocaine and alcohol addiction who sought rehabilitation firsthand. She indicated that the recovery community saved his life. She was inspired and incredibly grateful for that world of recovery. She also stated her strong concerns and stated what she witnessed on Cornerstone. She indicated the patient that was abandoned or rejected by Cornerstone and presented a video about a patient who got kicked out of the facility and was abandoned on the street. She also cited an instance about a structure that was in violation, she asked, "The question to the board is --how can we expect that these laws and the consequence of violating them impact everyone in this town with the exception of the Cornerstone? She remarked, "There are various simple ways that Cornerstone could have come into compliance but instead, they didn't."

Edward Wilson who's been a resident of the town for 20 years indicated that he's been a close neighbor of Cornerstone and is also fully aware of the existence of the facility when he bought his property. He applauds the good work that many people in the room do for the community they serve. However, the worthiness of the work that they do isn't a blank check to disrespect the agreements that they have with their neighbors and the community. Cornerstone has ignored the town laws for many, many years. Part of the problem is they have enjoyed the status of a pre-existing, nonconforming use. They took advantage of that ambiguous status to expand the size of the patient population. Mr. Wilson commented about Cornerstone's opening statement and the justification about their licenses and accreditations. He remarked, "This has nothing to do with the zoning regulations and town code!" He indicated the significant amount of public who are strongly concerned about the way this process has gone by and questioned how the town can entertain this increase. He exhorted the board to have Cornerstone comply, to go back with the original use that they were grandfathered in, and possibly regularize their status on that basis.

Randi Sackheim from Deer Hill Road, took the floor and said that she and her ex-husband moved to Clinton nineteen years ago. This house had been in her family since he was six months old. This was their summer cottage in 2014. She indicated her ex-husband's experience in crack addiction and time spent in Cornerstone. She was very concerned when she learned that her ex-husband was in Cornerstone. She was fearful that her ex-husband could easily get into

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her house or the neighbors' property knowing his action given the addiction. Concern of her safety and the neighbors', Ms. Sackheim said that she shared her safety concerns with the director of Cornerstone. She asked what they do for security and she was told that they count their patients every hour. She was told that the director cannot talk to her about it anymore and that she should start locking all her doors including car doors. Ms. Sackheim noted that they don't normally lock doors around here. She had warned her neighbors and expressed how horrifying and humiliating it was. After her ex-husband was released from Cornerstone, Ms. Sackheim said that her ex-husband started using again. After Cornerstone, he only went to not-for-profit organizations and after desperation and hard work, her ex-husband is now clean. She also expressed her understanding and familiarity about the recovery community which she credited for saving her ex-husband's life.

Ms. Sackheim expressed her disappointment about the Cornerstone unresponsiveness about her and her neighbor's safety concerns. She also indicated her experience in seeing several strange men running by her property into the woods. She had no idea where they were going each time. After alerting Cornerstone about it and asking if they were missing any of their patients, Ms. Sackheim said that she was told that they couldn't discuss that matter with her and that she could call the police if she is concerned. She did not call the police for fear that these troubled folks who were already in distress needed more trouble. All she could do was give her neighbors the heads up. She added that she was also told that Cornerstone would come by to her house to assess the situation but they never did.

Wendy from Deer Hill Road said that despite the untruth that is being spread by the Cornerstone, the Silver Lake Community does not want to shut down the Cornerstone facility. They have always and continue to support the mission of a rehab facility. She stated that the community on Silver Lake have lived in harmony with the rehab center since 1976, starting with Rhinebeck Lodge for Healthy Living and Alcohol and Drug Rehabilitation Center since 1998 with Cornerstone of Rhinebeck, an alcohol and drug rehabilitation center as well as a licensed medical detox center. Wendy quoted Cornerstone's claim about "good neighbors". She added that Cornerstone's representative has accused them of not responding to their gestures of outreach since they purchased the 66 beds property in 1998." Wendy remarked, "No one from Cornerstone has ever reached out to the community!" She punctuated, "Not a good neighbor!" Wendy stated that nobody reached out to them to let them know their intentions or how it might impact on their daily lives when Cornerstone has expanded illegally from 66 beds in increments to the current 99 beds ---She remarked, "Not a good neighbor!" Wendy continued, "When Cornerstone illegally changed their license to expand from the rehab of Rhinebeck Lodge to Medical detox, no one reached out to them to discuss how this may impact on their lives and how they can keep them safe, Wendy remarked, "Not a good neighbor!"

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Wendy stated that Cornerstone is not a good neighbor when Cornerstone illegally applied for and received a license to work with the criminal justice system and would be treating patients as an alternative to prison. No one contacted them to explain how they would be expanding their safety procedures to ensure safety of their children, peace of mind and comfort in the neighborhood. Wendy said that when they raised their concerns about a sex offender, Cornerstone responded that they have no way of knowing if someone is a sex offender. Wendy remarked, "Yet they have access to the same government website that we do!"

Wendy expressed her frustrations and disgust about Cornerstone's lack of dialogue and empty promises. They have never patrolled Milan Hollow Road to clean up the used hypodermic needles and discarded pills left behind by their incoming patients. She also discussed the foul language that their children are exposed to when their patients are outside but nothing was done to address the issue. In the 24 years that she had lived there, Cornerstone had never asked how they might contribute to the health and upkeep of the lake. Cornerstone illegally expanded and illegally changed their license. They belittle their quality of life. They don't contribute in any way to this community. She said, "When the board is considering how to deal with the twenty years plus of violations, Cornerstone should not be treated differently!" They should be expected to abide by the law. She found their excuse insulting.

Meryl, who is a licensed clinical worker, stated that she lives in the Town of Clinton for 22 years. She wants to correct a false narrative that has been spread that the lake community wants Cornerstone to close. She supports the wide availability of treatment for people with addiction issues. She underscored that their only request is that Cornerstone complies with the zoning regulations and work to become good neighbors. She has tremendous respect for the people who work at Cornerstone and for what they do. This is about following the law. She expects people to comply with the regulation just like what they've done when they filed a building permit to expand their home.

Brad Cole, who lives 200 yards from Cornerstone said he had lived here for about four years now. He commented that they hear the patients everyday when they're outside having a good time. It makes him happy that they are having a good time. He had friends and family who had their lives saved through addiction treatment. Substance abuse is everywhere and treatment should be everywhere.

Mr. Cole stated that he's never been inside the Cornerstone facility so he really doesn't know what goes on there. Some people have looked into this a little bit more than him. He is just a neighbor who lives there. Mr. Cole indicated his issue about "respect" for the community. Community that's inside the walls and the neighbors that are around. Something is missing for him. There are no fences,

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there are no boundaries. There is nothing that would protect the folks who are in there other than the folks who work there. There's no protection from our community. He noted that this doesn't imply that anybody's doing something wrong. It's simply a respect for people's space outside of Cornerstone and the space inside that. Mr. Cole also spoke about the respect of the zoning laws and the policies that we all have to live with that the town had put a lot of work into. He thanked the board for hearing him out.

Katarina Maxianova spoke and said that she bought her house more than 11 years ago. They knew that Cornerstone was a rehabilitation facility. Everyone in the community was very upfront about it. Ms. Maxianova commented that they found it inspirational. At that time, they had lived in the city for many years. She said that they saw the need for addiction treatment daily, among their friends and in the neighborhood. They were happy to be moving to a compassionate community like the Town of Clinton and Silver Lake. Reading the testimonials from the Cornerstone, she was surprised that the author of the letters seems to think that the community who had embraced the rehabilitation services for forty plus years wants to shut them down. She commented that Cornerstone was taking advantage of their professional community and their patients, -- lying to them.

Ms. Maxianova opined that it's hard to admit to you are a for profit corporation that has knowingly broken the law for twenty years and has been a bad neighbor while focusing on bottom-line profit. She asked the board to ask the applicant the following questions in making a determination in clearing the violations: (1) Inquire Cornerstone's decision in providing detoxification services immediately after the acquisition in 1998. She commented that Cornerstone knew no changes could be made to the size and rehabilitation nature of the facility without town approvals when they bought the facility. (2) Was this economically driven? Why? Ms. Maxianova indicated the Cornerstone facility in Connecticut had both rehabilitation and detox licenses. She stated that the Connecticut Public Health Commissioner suspended their detox unit license after many violations including death of a patient, and operating above capacity. Cornerstone could have operated their rehabilitation services, but they said in a press interview with Newtown Bee in 2001 that it would not be economically viable without detox.

Ms. Maxianova noted that this facility ultimately closed. In 2016, Cornerstone management took out at least \$22M in debt to buy out the original founder and became an employee-owned organization, making the management personally vested in profitability of the operation. The ownership changed in August of 2017. Cornerstone received CARF accreditation to provide a detoxification opioid treatment program to the special criminal justice population and to this day is the only provider in NYS with this accreditation (per CARF).

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Ms. Maxianova indicated the Cornerstone appearance before the Planning Board in 2017 regarding the large increase to nearly 200 beds. Nowhere in the expansion proposal did Cornerstone mention the CARF accreditation and criminal justice business model. Per her conversation with CARF about why a private, non-prison-based facility applied for this accreditation, she was told that it is easier to get criminal justice referrals and related funding, including Medicaid. Ms. Maxianova asked, "Would Cornerstone explain to the Board and to the community what does this accreditation mean for their business model and funding, and their operations?"

Ms. Maxianova pleaded for the board to consider the facts, the disrespect for the law and the nature of the Cornerstone business and their intentions. She asked the board to uphold the laws and not allow any retroactive increases in capacity and to go back to 66 beds. This would still allow more than 800 individuals annually to receive treatment. She commented that this is still 20% of our town population. If we need more – then, this could be addressed through the comprehensive plan review.

Ms. Maxianova opined that for some inexplicable reason, Cornerstone is trying to push through this fast. They have heard rumors that perhaps there is a buyer. She asked, "How foolish will we all feel when we destroy our zoning, allowing them to clear the deck, and then-- they sell the operations – cashing out and leaving us to deal with the fallout for years to come?" She thanked the board and submitted the copy of the full context of her comments.

Richard Millard from Cornerstone of Rhinebeck stated that a lot of these questions have something to do with the NYS HIPAA law. They cannot go running around telling people about their patients. He also explained their proposal about the increase in the number of beds. He commented that they haven't had 99 beds. He addressed the comments about the noise and other complaints. These people's lives are in their hands. These patients come to them for help. He said, "The same ten people playing volleyball are going to be loud in your backyard." The same eight people playing basketball are also going to be loud. This is a facility. He commented about the nitpicking about the noise, cursing, etc. He remarked, "We're here to help people!" He said that they understand the violation and they are willing to fix that but the nitpicking has to stop. There is a HIPAA Law so they cannot run around and tell everybody that there is a patient who did a bad thing. He thanked the board.

Deputy Chairman Thomas asked Mr. Millard about his statement that they are not at 99. Mr. Millard responded that they have around 60 patients for the last 9 to 10 months.

Sandra Oliveira spoke and gave clarity about some of the comments made and offered to give culture perspective. She said that they offer two levels of care. A

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person can be admitted to detox if he's under the influence of drugs which means he has to be high enough. He has to have drugs in his system and if that's not the case then they offer rehab as an adult. As an adult this person can deny the rehab and say "Well if you're not giving me detox then I'm not willing to stay." Ms. Oliveira stated that as an adult you can walk out of the facility. She said, "We're dealing with adults!" We don't hold people there. They based their admission on the patients' needs and not necessarily on the wants.

Ms. Oliveira explained that these patients are not under the influence of drugs all the time. These patients can express the best of themselves. These patients are also suffering. Ms. Oliveira stated that she's been working in this field for 16 years of all her adult life. She was a psychologist in Portugal and currently a substance Abuse Counselor in New York. Where she came from, they decriminalize drug use. It means that if you are found in possession of drugs or under the influence of drugs, you will not be charged and thrown in jail. You will be given the opportunity to seek treatment and do community service. She said that the drug use and use of paraphernalia such as bottles and needles as well as the spread of HIV Hepatitis disease decrease significantly. She indicated the number of prisoners imprisoned for drug related charges including drug possession per Federal Bureau of Prisons. She underscored that their patients are not criminals. They are human beings who are using drugs in a country that criminalizes drug use. She said that if she takes these patients across the ocean, these patients will be treated as substance users with a long history of bad choices. Ms. Oliveira commented that these people have been through a lot in their lives. We cannot change these people overnight! It seems that this is the expectation! She asked the public if anybody had ever been in prison. You have to do a lot of bad things to yourself, not others-- but to yourself. She commented that this is bigger than Cornerstone.

Ms. Oliveira commented about the comment "We Don't want to close Cornerstone...". She said -"This is okay but not in our back yard!" They are too loud, use foul language, that we need security, etc. Ms. Oliveira noted, "At the end of the day, someone's father, mother, etc. are suffering!"

Linda Smith, director at the Cornerstone facility spoke and said that she kept on hearing about Cornerstone this, Cornerstone that... but no one is actually talking about the epidemic that Cornerstone is fighting. The fact of the matter is - Cornerstone does not turn anyone away-- ever! She's been there more than 12 years and never recalled anyone getting turned away. If a person chose to leave then that is their decision. They are adults. However, Cornerstone is fighting a battle. The epidemic is growing and it's only going to get worse. She asked, "If the people are not in Cornerstone, where would they be?" Where else would they go? She said, "We have to remember that we have a place to fight this war and Cornerstone is that place!" She thanked the board.

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Deputy Chairman Thomas asked for any more comments from the public. He reminded the public to keep their comments to three minutes.

Ms. Maxianova took the floor again and revisited the letter from ZEO Fennel to Cornerstone's attorney, Mr. Replansky in 2005. She stated that Mr. Fennel's letter clearly stated that no increase in its residential population is allowed given the nonconforming and pre-existing use of the property in the Conservation District. Mr. Replansky seemed to dismiss the importance of local zoning law. She quoted Mr. Fennel's response, "Are you suggesting in your letter that we should ignore requirements of the law? Your assertion that "In almost every instance of non-conforming use existing in the Town of Clinton, those uses have been allowed to expand in intensity and volume with the knowledge and tacit, if not explicit, approval of the Town of Clinton simply does not stand up to scrutiny."

Ms. Maxianova asked, "What did Cornerstone do after that?" She responded, "They expanded the population multiple times adding 23 more beds since 2005 without getting approvals from the town." She commented that this blatant disregard for the law has not been explained to this day.

Ms. Maxianova indicated the violation letter issued to Cornerstone in August of 2021 for the past illegal expansion. Mr. Replansky responded in writing and quoted –"The Town of Clinton does not have the requisite authority pursuant to its code either to approve or limit the bed capacity or any increase in bed capacity for a licensed chemical dependency facility such as Cornerstone. In addition, any attempt by the Town of Clinton to limit or regulate the number of facility beds constitutes an impermissible interference with the business operations of the chemical dependence facility which is prohibited." Ms. Maxianova remarked, "So here we are today!"

Deputy Chairman Thomas thanked Ms. Maxianova and addressed the public. The board is proceeding under the directive from the town ZEO. He indicated the various correspondences from the ZEO and the most recent one dated April 1, 2022. A number of legal questions have been raised whether Cornerstone is entitled to expand. In the April 1st letter, the ZEO ruled that this application should proceed before this board and that they could consider the retroactive request to expand the capacity. The ZEO also addressed all the other zoning issues in that letter.

Deputy Chairman Thomas acknowledged the other issues that were raised by the public that weren't addressed in the ZEO's letter but noted that these are all zoning issues. He made it clear that the ZEO is basically a gatekeeper for this board. They don't have the authority to overrule his determination. He noted that the appeal or an interpretation can be done through the Zoning Board of Appeals who has the power to overrule the ZEO's determination. There is a timeframe in the town code for the appeal procedure. To his knowledge, no appeal was made

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and the board can proceed with the application on hand. He reiterated that the board is operating under the ruling by the Zoning Administrator. To this date, the April 1, 2022 letter stands until it's appealed.

Mr. Burnett said that he doesn't see anywhere in the April 1st letter where the ZEO states that this board can proceed on this application. The ZEO, in this letter, believes that the facility as a prior legal non-conforming use can expand both the type of services provided and the beds. The ZEO believes that this is not an illegal expansion of a prior non-conforming use. Mr. Burnett opined that's different than whether or not the ZEO can override the town code and say "You guys can proceed even though you are not in compliance and there's an existing violation." Mr. Burnett said that this violation is a fact. The code prohibits proceeding to a special use permit when there is a pending violation. In terms of allowing a special use permit, Mr. Burnett opined that there is a difference between proceeding and issuance of the permit. They can hold the public hearings but noted that the special permit cannot be issued until the violation is resolved.

Deputy Chairman Thomas agreed and noted that everybody understood that. The board cannot issue the permit until the violation is repaired.

Mr. Burnett said that the time period for the appeal hasn't expired. He's confident there will be one.

Mr. Replansky disagreed. The law is clear, if there is a violation, the property is directed to remedy the violation by going to the Planning Board and the violation is cured.

Deputy Chairman Thomas asked for comments or questions from the board.

Mr. Auspitz asked Mr. Replansky for clarity about the number of populations. He said, "We were hearing a distinction between the permitted maximum population and the actual population which you said is less."

Mr. Replansky responded that the maximum number of populations is 99. It fluctuates. At times the number is 99 or maybe less. It's the same for any facility. If a hospital has approval for 300 beds, sometimes there are 250 beds.

Mr. Auspitz commented that it would be very helpful if the board knows the actual number of beds used. Maybe a month-to-month figure?

After a very lengthy discussion, the board agreed not to close the public hearing.

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BOARD DISCUSSION:

None

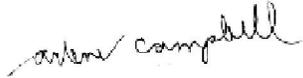
APPROVAL OF MINUTES:

None

ADJOURNMENT:

Mr. Auspitz motioned to adjourn the meeting at 10:20 pm, seconded by Mr. Carroll All, Aye, Motion carried, 5-0.

Respectfully Submitted,



Arlene A. Campbell, Clerk
Planning & Zoning Board of Appeals