



**11. APPROVAL OF MINUTES:**

**1. MINUTES OF FEBRUARY 3, 2021**

A motion to approve was made by Mr. Whiteman, seconded by Mr. Montroy. All eligible Members voted in favor.

**III. MEMORIALIZING RESOLUTIONS:**

None to present.

**IV. OPEN TO THE PUBLIC:**

Mr. Rabolli opened the meeting to the Public for general questions or statements.

**Mrs. Louise Stiles, 83 Eastview Avenue** inquired as to the maximum time between a completed application and the Board's decision. Mr. Rabolli stated 120 days as set forth in the MLUL however an extension may be granted by the Applicant.

Mrs. Stiles also inquired if it was true that every time a lease for a storefront, etc. by a new tenant has to be approved by the Planning Board. Mr. Rabolli stated that this is the Board of Adjustment and deferred the question to Ms. Entrup, Planning & Zoning Officer. Ms. Entrup commented that every new tenant has to fill out a Tenant Application. If it is a permitted use, it can be approved by herself as Zoning Officer.

**Ms. Meridith Magner, 62 North Railroad Avenue** questioned how the Bamboo Ordinance is being enforced. Ms. Entrup stated that the Bamboo Ordinance is new, enforcement is still being addressed.

**V. PUBLIC HEARING:**

**1. DOCKET #1487-21 – PALISADES PROPERTIES, LLC  
316 FOREST ROAD, BLOCK 168, LOT 9**

Application for a Request for Interpretation and/or "D" Use Variance for a Sober Living Home in an existing dwelling.

Mr. Cascio stated that the Notice was in order.

Mr. Rabolli provided the hearing procedure to the Applicant and participants, stating that the Attorney provides the road map and presents witnesses who will testify in their area of expertise. Questions may then be asked of the witnesses as to what was testified to by

Members of the Board, followed by Board Professionals and then members of the Public. If giving testimony, the speaker must be sworn in and visible. Objectors may testify, giving their Case in Chief with Professionals or an Attorney, and will be sworn in and be subject to cross-examination.

Mr. Montroy stated that he lives within 500 feet of the property and is therefore recusing himself from this Application.

Mr. Edward Purcell, Esq., Price, Meese, Shulman & D'Arminio, P.C., 89 Headquarters Plaza North, Suite 1442, Morristown, NJ 07960, representing the Applicant stated that the Applicant requests an interpretation that the use of a Sober Living Home is permitted in the R10 Zone or an alternative Use Variance for this particular use.

Mr. Purcell continued, stating that the proposal is for a Sober Living Home for men with alcohol/drug addiction. It is a residential use. Only after put into use there were questions regarding Zoning. The Applicant is licensed by the State of New Jersey. This facility operates strictly to New Jersey State regulations. Addiction is a disability, an illness that affects the ability to function in daily living – people with addiction are not bad people, they just need help. Addiction is a problem in the United States and also in Bergen County.

Mr. Purcell referenced ADA (Americans with Disability Act) that affects accommodations in restaurants and hotels, and the FHA (Federal Fair Housing Act), which is similar to ADA. The FHA is similar because it requires Municipalities and Land Use decisions not to discriminate against the disabled. It also requires Municipalities grant accommodations from the Land Use requirements to accommodate the disabled and give them the ability to live within a Municipality. The Federal regulations, guidance documents and Federal cases have held that individuals with alcohol and drug addiction problems are considered to be disabled under the FHA and benefit from these protections.

If the Board finds that this use is not permitted, the Board must grant an accommodation through a Use Variance. The use is slightly different from the average home, but still residential.

The first witness, **Mr. Jay Jonas, Head of Operations for Palisades Properties, LLC, 2 Kensington Court, Tenafly, NJ**, was sworn in by Mr. Rabolli and gave an overview of Palisades Property's mission, stated that he is a member and 50% owner of the company and has spent seven years working with those addicted to substances. Palisade Properties is the Sober Living Home in Mahwah that provides a safe place for men to remain sober during treatment at a separate facility for outpatient treatment. Mr. Jonas stated that he is also the Managing Member of Bergen Enterprises Center, LLC, d/b/a North Jersey

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Recovery Center that provides outpatient treatment. No treatment of any sort takes place at the Mahwah residence. Palisades Properties is licensed as a cooperative living residence by the Department of Community Affairs in the State of New Jersey. There are two Sober Living Homes in Kinnelon, NJ owned and operated by Palisades Properties, LLC.

The Sober Living Home in Mahwah is rented. The Lease was entered into on November 1, 2019 with the first resident arriving in February of 2020. The type of person in recovery, their addiction, effect on life, and recovery process were described as those having Substance Abuse Disorder, suffering from substance disorder with no sense of control, anxiety and/or depression and physically withdrawn. Residents start in the Detoxification Facility to eliminate the physical addiction which is quite painful. When arriving at the residential facility, they go through the most intense period of outpatient treatment while living at the facility, and then return home.

After inpatient care, as described by Mr. Jonas, most families are not ready to deal with the patients coming home; many have burned bridges. The Sober Living Home provides the uplifting environment that is very much needed and helps build life skills while recovering; therapeutic support while receiving treatment. The average stay is 60 – 90 days.

The following exhibits were submitted by Palisades Properties, LLC:

- Exhibit A-1** - Survey by Surtech,– exterior of the property dated 4/28/21
- Exhibit A-2** - Floor Plans – first floor
- Exhibit A-3** - Floor Plans – second floor

The exhibits were described in detail including access points, parking, driveways, rooms, number of beds, kitchen, dining and living rooms, bathrooms, laundry and access to the deck. There are no signs indicating that it is a Sober Living residence. An average of 6-7 men live at the home.

The House Manager oversees the residents; dinners, activities, curfew, etc. and is permanent unless he chooses to leave. Every client is encouraged to cook and eat together. They each have weekly chores. There are no visitors except an approved family member or resident sponsor from the AA Program or the Self Help program that they are required to be a part of.

There is a very strict no alcohol or drugs policy. Any resident that breaks their sobriety or if alcohol or drugs are found, the resident is immediately discharged; mainly to help protect the sobriety of the other residents. Drug testing is done randomly three times per week. No doors are permitted to be lock except the House Manager's room. A pre-

requisite to enter the program is to be enrolled in outpatient treatment. Residents are allowed to drive to treatment or are taken by Palisades' van – Monday through Friday. There are no AA meetings on the property; they can be attended outside or on Zoom. Residents pay out of pocket or by scholarship provided to those that meet all requirements other than financial.

Mr. Rabolli opened the questioning from Members of the Board for Mr. Jonas.

Questions from the Board included; ability to control parking, ownership and partnership of Palisades Properties, Lease Holder, addresses of other locations, house rules, selection of House Manager, drug testing, references, qualification of residents, DCA Licensing including the paperwork that came with the initial F License, annual Compliance Reports, security issues leading to discharge, controlled environment and maintenance and the 3-step formal process.

Responding to the questioning, Mr. Jonas stated that 3 – 4 of the residents might have a car. If at any given time there was not enough parking, the newest guy in the home would be waiting for a spot to open and then go through the process of making sure his license was valid. William Ennis is the other 50% owner/partner. Lee Empire, P.E., LLC is the owner of the property. The ownership of Forest Mahwah, LLC will be confirmed. The facility is a Licensed Class F Facility under the January 2018 Statue passed in NJ. Copies of the Applicant's DCA License with initial paperwork and DCA Annual Compliance Reports can be provided. A list of House Rules will also be provided. Palisades Properties, LLC manages oversight of the residents.

Mr. Jonas explained the 3-step formal process as:

1. Physical addiction – withdrawal symptoms – need detox.
2. Residential inpatient program – 28 days. No freedom, in therapy all day. Once approved by licensed Clinician, stepped down to less aggressive treatment.
3. Move into residence – screened before taking them in.

Residents either drive or are transported to a program at an outpatient facility with licensed professionals. No outside visitors; maybe a family member or food delivery.

There were no further questions from Members of the Board for Mr. Jonas.

Mr. Rabolli opened the questioning from Board Professionals for Mr. Jonas.

Ms. Lawlor inquired if residents leave to go to work and if the alternative is to live at home. Mr. Jonas stated that they do go to work depending on their therapy schedule. When therapy lessens, the goal is to get a job. Residents are outside of the home a good

part of the day. Most times, especially parents, are not ready for bringing them home; Palisades is the bridge to get them back.

Mr. Kelly's questions pertained to each facility being on its own and licensed by the State and if there were any Police incidents at Kinnelon. Mr. Jonas stated that each facility is licensed by the State. There were no police incidents at Kinnelon. The incident in Mahwah was not technically a Police matter; a resident was hitting golf balls into the neighbor's house and apologized to the neighbor. The resident was discharged from the facility. In the event of a more serious situation, legal procedures would be followed. The Police Force is trusted to take the resident to the right place, i.e., hospital, jail.

Additional questions from Members of the Board were brought up regarding the hours of the House Manager and in the event he becomes sick, marijuana, curfew, and exercise in the neighborhood during the day. Mr. Jonas responded that the House Manager is at the facility 24/7; he does come and go but is there when the residents are there. The program is not about legality, it is about sobriety. The curfew is 10:00 p.m. Residents exercise in the neighborhood during the day.

Following a 5 minute break, the meeting resumed at 9:02 p.m.

Due to being past the 9:00 p.m. hour, Mr. Rabolli rescheduled the Mahwah Business Park hearing to April 7, 2021 as first on the Agenda, followed by Pike Enterprises. Mr. Kohut, representing Mahwah Business Park, granted the extension of time.

Mr. Rabolli opened the questioning to members of the Public for Mr. Jonas.

Members of the Public with questions included:

**Mr. Jonathan Marcus, 3 Brook Court**

**Mr. Craig Sanogueira, 230 Forest Road**

**Mr. Steve and Mrs. Janet Orenchuk, 11 Forest Hill Road**

**Mr. Gregg Straffin, 3 Strong Street**

**Mr. Carlo Mule, 19 Sylvan Court**

**Ms. Jennifer Petrie, 20 Sylvan Court**

**Mr. Bruce Kuipers, 328 Forest Road**

Common questions asked by members of the Public were; ownership of the facility, type of lease, licensing, House Manager training and qualifications, client vs resident, length of stay, women at the home, treatment and drug testing done at the home, for profit or non-profit, the incident with the golf balls, other incidents at the facility such as excessively loud music, gym equipment in the garage, loud conversations all hours of the night, females showing up and a constant turnover of males prior to the golf ball incident,

safety in the neighborhood, video surveillance, being proactive vs. reactive, prior approval, and background checks.

Both Mr. Purcell and Mr. Jonas responded to questioning, stating that the owner's address can be clarified, the lease is residential - the use is a Sober Living Home, House Managers are required to have certification hours annually or bi-annually, the House Manager is a peer supervisor and manages the house. He is not an employee and is compensated by living at the facility, residents stay on an average of 60-90 days, no women stay at the facility but are in group sessions at the outpatient facilities, no treatment is given at the facility, random drug testing is done three times per week at other locations, both companies are for profit, Mr. Jonas stated that the minute something was brought to his attention it was addressed, nothing has happened since, a car at the residence for more than a day is a resident approved to be there, there is no lease, but a contract to follow the rules, rent is paid to stay at the facility, the men are referred to as residents, there is video surveillance 100%, the facility is run almost like a business – Mr. Jonas is there every day; reactive because an incident shines the light on what needs to be fixed and is sometimes necessary, but proactive is the name of the game. The State of New Jersey approved the application before it was known that the Zoning Board of Adjustment approval was also required – the Applicant is now before the Board. Background checks are done utilizing the New Jersey Database.

A discussion took place regarding the owner having an operation in Florida that closed and his ambition to give back to people needing this type of facility in Bergen County, New Jersey. There were no issues in Florida, including licensing issues as a facility cannot operate without a license. Mr. Jonas stated that he was in treatment in South Florida in 2011; graduate of the University of Road Island, outreach, marketing, operating the facility.

Addressing Members of the Board, Mr. Rabolli summarized the Application, stating that the Applicant has come before the Board for an interpretation as to whether it is a permitted use or if the Applicant needs to seek a Use Variance and if the determination is to seek a Use Variance, it would be a D1 relief in this facility in a residential neighborhood.

Mr. Cascio stated that the Board has to know what Ordinance the Application is claimed to be in deviation from before reaching a point to vote, whether or not the Application complies with the Municipal Ordinance for this use. Mr. Purcell should have the opportunity to present specifically why he believes this Application is permissible under the Township's Municipal Ordinance. After which time the review letters from the Township Engineer dated January 19, 2021 and Planner dated February 24, 2021 should be reviewed regarding the new definition of a Single Family Home and the presentation of the Applicant's Attorney and testimony of the Applicant's Planner.

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It was discovered that the Ordinance posted on the Website was not the current one. Ms. Lawlor commented that the Zoning Code was changed toward the end of 2020; there is a new definition of family. She read the definition of family and of household from her letter dated February 24, 2021. Besides the Code, the Municipal Land Use Law comes into effect. What is important is that community residences for persons with developmental disabilities shall be permitted uses in all residential districts of a municipality, and the requirements therefore shall be the same as a single family dwelling unit located in such districts. The Citation is 40:55D - 66.1 and 66.2a.

Mr. Purcell stated that the Applicant's Planner will be needed to provide testimony, focus on the Code and have the Board act on that.

Members of the Board agreed that testimony from the Planner and how it applies to the Ordinance is necessary.

Mr. Rabolli announced that the Application is being carried to May 19, 2021. No further notice is required.

Ms. Entrup commented that an Extension of Time was granted by letter from Mr. Purcell.

A motion to adjourn was made by Mr. Whiteman, seconded by Mr. Cannava. All voted in favor.

The meeting adjourned at 10:26 p.m.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on May 13, 2021 for approval at the Regular Meeting to be held on May 19, 2021.