

TOWNSHIP OF BERNARDS **PLANNING BOARD**

REGULAR MEETING AGENDA

Warren Craft Meeting Room
June 7, 2022
7:30 PM

This meeting will be held in person in the Warren Craft Meeting Room. In addition, the public will be able to view the meeting live on Optimum/Cablevision TV – Channel 15 and Verizon FIOS TV – Channel 35 and the meeting will also be streamed live for those interested in watching on their computers. The link will be available at 7:30 PM by clicking on the “Watch the Meeting Live” icon on the Bernards Township homepage. Questions/comments from the public will be accepted in person and **only** during the public questions/comment periods of the meeting.

- 1. CALL TO ORDER**
- 2. FLAG SALUTE**
- 3. OPEN PUBLIC MEETING STATEMENT**
- 4. ROLL CALL**
- 5. APPROVAL OF MINUTES**
 - A.** May 17 – Regular Session
- 6. APPROVAL OF RESOLUTION**
 - A.** Moye; William & Carol; Block 11401, Lot 11; 11 Mountain Road; Subdivision; PB22-001 (approved)
- 7. PUBLIC HEARING** (continued from 05/03/2022)
 - A.** [Ahmed, F./Faizan, A./Kirkwood, Kevin & Nathalie](#); Block 2301 Lots 4 & 5; 48 & 62 Wisteria Way; Amended Preliminary/Final Subdivision; PB21-005
- 8. PUBLIC HEARING – ELIMINATION/MODIFICATION OF CONDITIONS**
 - A.** [Fellowship Senior Living Inc.](#); Block 9301, Lot 33; 33 Allen Road; Elimination/Modification of Conditions; PB13-006A
- 9. COMMENTS FROM MEMBERS** (5-minute limit per member)
- 10. COMMENTS FROM STAFF**
- 11. ADJOURN**

05/18/2022 dskpjd

TOWNSHIP OF BERNARDS

2021 PLANNING BOARD APPLICATION

☐ Minor Subdivision
☒ Major Subdivision - Preliminary
☒ Major Subdivision - Final
☐ Conditional Use

☐ Site Plan - Preliminary
☐ Site Plan - Final
☐ Informal Review
☐ Other (specify): _____

1. APPLICANT: Anila Faizan & Faizan Ahmed (62 Wisteria way) - Kevin & Nathalie Kirkwood (48 Wisteria way)

Address: 11 Ridge Road, Green Brook, NJ 08812 && 48 Wisteria Way, Basking Ridge, NJ 07920

Phone: (home) _____ (work) _____ (mobile) 732-579-7443

Email (will be used for official notifications): faizan.chairman@gmail.com & kkirkwood@optonline.net

2. OWNER (if different from applicant): _____

Address: _____

Phone: _____ **Email (will be used for official notifications):** _____

3. ATTORNEY: _____

Address: _____

Phone: _____ **Email (will be used for official notifications):** _____

4. OTHER PROFESSIONALS (Engineer, Architect, etc. Attach additional sheet if necessary):

Name: ANDREW WU **Profession:** Engineer

Address: 168 U.S. ROUTE 1, EDISON, NJ 08817

Phone: 732-632-8087 **Email (will be used for official notifications):** awformosaeng@aol.com

5. PROPERTY INFORMATION: Block(s): 2301 Lot(s): 4 & 5 Zone: R1

Street Address: 48 & 62 Wisteria way, Basking Ridge **Total Area (square feet/acres):** 4.008 & 3.173 acres

6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY? ☐ No ☒ Yes (if yes, explain or attach Board resolution) Preliminary and final planning board resolutions attached as well board of adjustment res. is attached

7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY? ☒ No ☐ Yes (if yes, explain) _____

8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?

☐ No ☒ Yes (if yes, explain and attach copy) EMERGENCY ACCESS EASEMENT

9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST: Lot 4 & 5 are two of 11 single-family residential lots, including two lots in Bernardsville, that are accessed from Wisteria Way and developed in accordance with subdivision approvals granted by Planning Board on Jan 30, 2001(pre), July 11, 2001(amended pre), and March 5 2002(final). The emergency access easement (pathway) pass through lot 5 and adjoining lot 4. We are requesting the vacation of this emergency access easement.

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):
The Emergency Access Easement was enforced as a condition of approval for subdivision dated June 25, 2002. We are applying to the Board for amended preliminary and final subdivision approval to eliminate the conditions set forth in the underlying approval resolutions regarding emergency access easement.

11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION:
The New Jersey Department of Community Affairs (the "DCA") issued RSIS Clarification #4 which explained that the maximum average daily traffic ("ADT") for a cul-de-sac is 250 trips, which is a better measure of a function of the cul-de-sac. The RSIS Clarification #4 constitutes a change in law which is a change in circumstances that warrants elimination of condition # 18, 20, setforth in the preliminary application and Condition 8, 9 setforth on June 25, 2002

12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):
MANJUSREE R. REVURI
NOTARY PUBLIC OF NEW JERSEY
ID # 50001769
My Commission Expires 8/13/2024

APPLICANT(S) SIGN HERE:

I/we, Anila Faizan & Faizan Ahmed and Kevin Kirkwood & Nathalie Kirkwood hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): [Signature] and [Signature]

Sworn and subscribed before me, this 20 day of December, 2021

Anthony Franchini
Notary B. Manjusee on Dec 21st 2021

ANTHONY FRANCHINI
Notary Public - State of New Jersey
My Commission Expires Jan 13, 2026

OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, _____ the owner(s) of the property described in this application, hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): _____

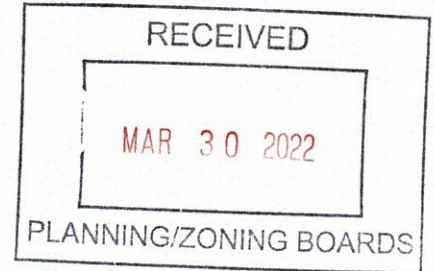
Sworn and subscribed before me, this _____ day of _____, 20__.

Notary _____

March 29, 2022

VIA ELECTRONIC MAIL AND OVERNIGHT DELIVERY

Township of Bernards Planning Board
Attn: Cyndi Kiefer, Board Secretary
Municipal Building
1 Collyer Lane
Basking Ridge, New Jersey 07920
Email: ckiefer@bernards.org



**Re: Relief from Conditions of Approval
Fellowship Senior Living, Inc. ("Applicant")
Application (PB13-006) for Preliminary and Final Site Plan Approval and
Conditional Use Approval ("Application")
Block 9301, Lot 33 ("Property")**

Dear Ms. Kiefer:

This firm represents Applicant in the above-referenced Application. The Planning Board (the "Board") approved the Application by a memorializing resolution adopted on October 18, 2016 (the "Resolution"). This letter is written to request the elimination of Conditions 6, 10 and 22 (paragraph 6) in the Resolution (the "Conditions"), which state:

- Condition #6: "there shall be no weekday (Monday through Friday) public paid performances in the multi-purpose room / theater before 7:00 p.m. [This condition was agreed to by Gary Dean during the July 7, 2015 hearing session — intended to keep performances out of "peak hour" traffic times; superseded by paragraph 6 of the Parking Management Program referenced in Condition #22]"
- Condition #10: "use of the multi-purpose room / theater shall be limited to Trilogy, Light Opera, and other professional organizations and to the number of productions as set forth in Exhibit A-6 of the Resolution, a copy of which is Enclosed. [Suggested by the Board and agreed to by Vincent Bisogno during the November 13, 2014 hearing session at which time Exhibit A-6 was entered into evidence.]"
- Condition #22: "the applicant shall implement and abide by the Parking Management Program dated February 16, 2016. [a copy of which is attached to the Resolution and also Enclosed with this letter.]" Specifically, Paragraph 6 of the Parking Management Program states that for ticketed Theater events that are open to the general public, doors shall open for attendee admission no earlier than 7:00

March 29, 2022

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PM on weekdays. Applicant seeks relief from this portion of paragraph 6 of the Parking Management Program which is tied into Condition 22.

Please accept this letter as Applicant's request for an elimination of these conditions for the reasons set forth below.

Pursuant to N.J.S.A. 40:55D-12a, the Board has the power to modify or eliminate prior approval conditions upon a "proper showing of changed circumstances," or upon "other good cause" warranting modification or amendment, or if "enforcement of the restrictions would frustrate an appropriate purpose." Cohen v. Fair Lawn, 85 N.J. Super. 234, 237 (App. Div. 1964). It has been more than six years since the conditions were first agreed to on the record in 2014 and 2015, and much has changed in the interim.

The theater opened in August 2019, and featured performances such as *Brigadoon* (a Trilogy Repertory Production), *Nunsense* (a Centenary Stage Company Production), the New Jersey Ballet, the New Jersey Festival Orchestra, and *Die Fledermaus* (a Light Opera Production). The theater unfortunately went dark from March 2020 through August 2021 due to the Covid-19 Emergency. However, during its opening season and since reopening in September 2021 with *Driving Miss Daisy* (A Roadshow America Production) and followed by *The Evolution of Henry Mann* (an American Theater Group Production) in October 2021, it has proven to be a fantastic amenity and cultural resource for the residents and the community, providing a local outlet for quality theater and musical productions in a comfortable setting. In March, Applicant hosted *La Boheme*, from Light Opera of New Jersey, and it looks forward to productions of *They're Playing Our Song* by Trilogy Repertory and the New Jersey Ballet in April and May.

Applicant understands that the Planning Board had concerns when this application was first presented in 2014 regarding whether the patrons of the theater would overwhelm Fellowship Village's parking capacity. Applicant is happy to report, during times the theater is open and operating, that such concerns have not come to fruition. Enclosed is a Parking Evaluation Report by Dolan & Dean Consulting Engineers, dated March 14, 2022 (the "Report"). Based on observed, measured parking activity at the site and the analysis detailed therein, the Report concludes that more than sufficient parking is provided at Fellowship Village to accommodate unrestricted theater events at maximum capacity without creating a negative impact on the property or surrounding area.

As such, Applicant requests an elimination of Conditions 6 and 10 and a modification of Condition 22 so that Applicant can use the theater at Fellowship Village's Cultural Arts Center without any limitations as to the number of productions and performances per year, the type of performances and production that are allowed to be conducted, or the timeframes in which performances may be conducted.

March 29, 2022

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In support of this request, enclosed please find twenty-one (21) copies of the following items:

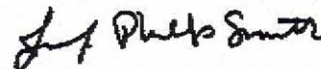
- This Cover Letter;
- Copies of the Planning Board Prior Resolution, dated October 18, 2016, including Exhibit A-6 and the Parking Management Program;
- Copies of an Overall Site Plan, prepared by Marathon Engineering & Environmental Services, dated March 23, 2022, depicting the general layout of the campus and parking lots. **(Please note that Applicant is not seeking to modify any existing site conditions.);**
- Copies of an Overall Parking Summary, prepared by Page Engineering Consultants, PC, dated February 22, 2016 **(Please note that Applicant is not seeking to modify any existing site conditions.);** and
- Parking Evaluation Report by Dolan & Dean Consulting Engineers, dated March 14, 2022

In addition, the following will be delivered under separate covern :

- A check in the amount of \$300 made out to the Township of Bernards for the application fee;
- A check in the amount of \$3000 made out to the Township of Bernards for an escrow deposit; and
- A W-9.

Please advise if the Planning Board requires any further information prior to scheduling a public hearing to consider this request. We thank you for your assistance and consideration.

Sincerely,



Jennifer Phillips Smith
Director

Enclosures
JPS/kdm

cc: Brian G. Lawrence, President & CEO, Fellowship Senior Living, Inc.