

ZONING BOARD OF ADJUSTMENT

Meeting Minutes

August 17, 2021

**MEMBERS PRESENT:**

Joseph Maguire  
Lynne Schill  
Vincent D'Antonio  
Lynne Gallo  
William Creeley  
Chetan Vajapey

**STAFF PRESENT:**

Peter Clifford, Board Secretary  
Melanie Levan, Board Attorney  
Mackenzi Kelly, Board Recording Secretary

**ABSENT:** Timothy Monahan, Walter Fazler, Georgette Castner

Mr. Joseph Maguire called the meeting to order at 7:04 pm in the Council Chambers of Town Hall, 111 West Second Street by reading the Open Public Meeting Act statement. The Pledge of Allegiance followed a moment of silence. Roll call was taken as listed above.

William Creeley was sworn in as a regular member of Zoning Board  
Chetan Vajapey was sworn in as an Alternate #1 on the Zoning Board

**RESOLUTIONS**

- **ZBA#2021-18**, Elizabeth T. Trucksess on behalf of Janice R. Trucksess (mother)  
Mr. D'Antonio made a motion to approve resolution **ZBA#2021-18**, seconded by Mr. Creeley. The roll call vote of eligible Board members was unanimous in favor. Motion carries.
- **ZBA#2021-19**, Woolman, Tammy L. and Frank E. Sr.  
Mrs. Schill made a motion seconded by Mr. Creeley. The roll call vote of eligible Board members was unanimous in favor. Motion carries.

**Minutes:**

- Mr. Creeley made a motion to approve the July 20, 2021 meeting minutes, seconded by Mrs. Schill. The roll call vote of eligible Board members was unanimous in favor. Motion carries.

**New Business:**

**ZBA#2021-16**, Elena Nelson & Nicholas Mastroianni, 401 Paul Drive, Block 4605, Lot 49, Zone R-2, Bulk Variance needed to increase aluminum fence height to 6 feet from the approved 3 feet. Property borders Lovell Drive, which is an easement.

Elena Nelson & Nicholas Mastroianni were sworn in by Mrs. Levan.

Mrs. Levan stated they were there for a variance to put in a six foot fence in a front yard area. The property is on the corner of Paul Dr. The applicant stated the fence will be in the Front yard and side yard. Mrs. Levan confirmed the property is on the corner of Paul and Lovell Dr. Lovell Dr. is a paper street, in which cars cannot go on.

**Exhibit A**

Shows the paper street easement as well as their yard.

**Exhibit B**

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Photo of paper street, it is all grass. The neighborhood is one long street with all adjacent houses, there is no break in the curb. Lovell Dr. appears as an empty lot between theirs and the neighbors. It is mostly single-family homes. The applicant submitted a survey. The fence will start at the corner of their property extending 22 feet towards Lovell Dr. and 70 feet along the western border of their property. Mrs. Levan inquired if the entire back will also be fenced. The Applicant stated yes. It will be an aluminum black picket fence with doors/gates. The gates will be on the side that faces Paul Dr. Mr. Maguire inquired about the location of their house. It is unique. He stated it looks like all grass, and appears to be their property. It is oriented towards the corner and it is a little catty-cornered. The applicant stated behind them is the campus of Moorestown Friends; some of their property extends a few feet into a wooded area. Per the township's ordinance, you can have a 6 foot fence in the back yard. Their house fronts on the paper street. The relief they are seeking is if they can put a fence on that street. Mrs. Levan stated the way the house is set up it is considered a side yard. They need the fence because they have two large dogs and a baby that will eventually be outside. Mrs. Levan inquired what is on the other side of Lovell Dr. The applicant stated single-family homes and it is about 25 yards wide. The applicant agreed with Mrs. Levan that Lovell Dr. is a berm with a high elevation than the base of the house. Mr. Clifford stated it appears to be 50 feet wide. Mr. Mastroianni stated he has been a police officer for about 5 years; he feels a 3-foot fence is not good for security or a dog. A six-foot fence will be much harder to get over.

**Public Comments:** None

### **Board Deliberations:**

Mrs. Schill she thinks it is fine and approves it. Mr. Creeley it is functionally a side yard and he echoes Lynn.

Mr. Vajapey made a motion to approve the application, seconded Mr. Creeley. The roll call vote of eligible Board members was unanimous in favor. Motion Passes.

Mrs. Levan stated there is a 45 day appeal process if anyone appeals it in that time frame and they put it up they would have to take it down.

**ZBA#2021-21**, HEF Ventures LLC,  
504 Bartram Road, Block 3902, Lot 30, Zone R-1A,  
820 Cox Road, Block 7900, Lot 1, Zone R-1,

Interpretation- To confirm that the proposed SF Home/Cooperative Sober Living Residence ("CSLR") use is permitted in the R-1 Zoning District and the R-1A Zoning District.

Richard Hoff from the Law firm Bisgaier Hoff represented the applicant Hef Ventures, LLC. This application involves two properties; 504 Bartram Rd located in the R-1A zone and 820 Cox Rd located in the R-1 Zone. They are here for a zoning interpretation. They are currently operating these residences as CSLR. Both residences are licensed by Department of Community Affairs.

The DCA govern the terms in which the residence operate; however they do not have jurisdiction over whether the uses is permitted. These are both in single-family resident zones. If the CSLR's are characterized as a single-family residences they are permitted there. The question before the board is what constitutes a single family residence. Moorestown's definition and ordinances states: related persons living together in one housekeeping unit. They are here to provide testimony to determine whether the people living in the CSLR are living as a housekeeping unit.

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Mrs. Levan stated HEF Ventures, LLC has applied to the Zoning Board for an interpretation of the Moorestown Zoning Code that the CSLR's are permitted in the R-1 and R-1A zones.

Mrs. Levan stated the New Jersey Supreme Court in the case of the Borough of Glassboro vs Vallorosi, rejected the concept that a family must be made up of people related by blood, marriage or adoption. The board cannot require people must be related to constitute a family. There are no definition in the Zoning Code of a single housekeeping unit. It is up to the Board to interpret the zoning ordinance. The case of Vallorosi found that unrelated students living together in private off campus single family dwelling constituted as a family. They ate together, shared household chores and paid expenses from a common fund. Mrs. Levan also discussed Oxford House, where residents leased a home, prepared and ate meals together, shared chores and developed their own rules for managing the home. She stated the Board has to take into account the FSHA . The board cannot prohibit people with disabilities access to housing.

### **Witnesses:**

James Devine, the Director of Housing at Citadel and is representing the applicant. Citadel is a trade name. It is the same as Hef, Ventures, LLC

Mr. Devine stated HEF Ventures, LLC provides housing for substance and recovery individuals. He stated the two properties are CSLR. One house is for men and one is for women. He helps establish guidelines and regulations for house. He has been the director for four years, He started his personal journey in recovery 22 years ago. One of the challenges is after 30 to 60 days of treatment they are back into the community the missing link is long-term recovery. He stated this helps them get back into the community for a more productive life. He stated those eligible to live in the houses are 30-60 days past treatment. They have to be really focused on improving their lives and dealing with their issue with substance abuse. The CSLR are not designed for counseling or medical procedures. There is always someone from HEF there. They do not provide any support services.

He stated there are between 6 and 8 people living there. There are 6 bedrooms in each house with 2 people typically in a bedroom. HEF, Ventures, LLC does not buy their food or clothing. They do provide maintenance outside. They do chores that are assigned, which is part of the resident's package. Since covid they have been doing home delivery to get groceries. Prior to Covid they would go to the store themselves. The person there from HEF is prohibited from doing chores in the house. Each resident has access to the whole house. The residents have different lengths of stays. They have curfews. Most residents go to treatment daily. He stated the typical length of stay at the houses in Florida are 60 days to 14 months. These properties have only been open for five months; they have been seeing 60-90 days. They have a 14-page intake document, they have to sign releases. The integrity of the house is important to them. If someone loses the battle they have to leave immediately. They sign a release in their packet for drug and alcohol testing. Guests are allowed, the curfew hours apply to the guest as well. Currently they are being transported to and from treatment. They do random drug testing to check up on them and if there is any suspicion. They do their own laundry they do not provide any clothing, food, cleaning supplies, or money.

### **Board Questions:**

Mr. Maguire inquired if Mr. Devine understood the Oxford Model. Mr. Devine stated he did.

Compare and contrast the oxford house model. Mr. Devine stated the biggest distinction is there is someone always at the house. Mr. Maguire inquired if everyone has their own kitchen. Mr. Devine

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stated no there's one kitchen. Mr. Maguire inquired what would be different in the home from a residence next door. Mr. Devine stated there may be more fire extinguishers. Mr. Devine stated nothing has been modified. Mr. Maguire inquired about occupancy per room. He stated typically double or single. There is a limit of 10; however he does not think they ever have had 10. Mr. Maguire inquired if they have cars. Mr. Devine stated that is another distinction from Oxford, they do not allow vehicles for the first 30 days they are there. After that, it is fine. At most 3 to 4 cars at the residence.

Mr. Devine stated one of the documents in the intake packet is a Good Neighbor Policy. They are asked not approach neighbors.

Mrs. Gallo stated it is a new concept to her. She inquired if the homes are currently occupied. Mr. Hoff stated yes they are, they were granted the permit. They were approached due to concerns about the residence by the township. She inquired about the structure of the CSLR's. They do not have their own leases. They are given an intake packet with the housing agreements. He stated they pay weekly

She inquired if there was an emergency who would they call. Mr. Devine stated they have two direct house managers or they can contact him. There are no cameras in the home only outside. He stated they are for profit and are not tax exempt. She inquired if they receive funding from the state. He said not that he is aware of. She inquired where the residents come from. He stated from all over the state.

Mrs. Schill inquired if the permit was from the state. She inquired if they needed a county or township permit. Per the applicant's lawyer, they satisfied everything they needed to. He said there is no county application.

Mr Creeley inquired about the DCA regulations' requirements to onsite operators. He stated his understanding is the operator is the stable face of the house. Mr. Hoff stated yes there needs to be an operator in each of the facilities.

Mr. D'Antonio inquired if he is a paid employee. Mr. Devine said he is an employee. He also inquired if these types of homes are typically for profit or non profit. He stated typically now they are for profit.

Mr. Vajapey inquired about approximately the number of emergency calls to either properties.

Mr. Devine does not have any data but would say about 4 between the two properties. Mrs. Levan stated the board cannot use police or anything like that to determine if it is operating as a single housekeeping unit.

Mr. Devine stated they are very serious about being a good neighbor as well as respecting their neighbors and community. He has not had any complaints. They take people that have never meant before and he feels what bonds them is they have lost people, families and jobs. They get hope from each other. He stated hurt people gravitate towards each other. Mrs. Levan stated there are looking for a definition if this fits in as a household.

### **Board Professional:**

Mrs. Taylor was sworn in, she went over her letter dated 8/3/2020. She stated on Page 2 the applicant requests the interpretation of the ordinance. In a response letter dated 8/12/2021 from the applicant; the word related needs to be stricken. He stated there are not multiple kitchens, they are sharing

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bedrooms, bathrooms, outside space and they all share a commonality of why they are living together like students do.

Mrs. Taylor stated permitted uses in residential districts. She stated the applicant talked about social structures, such as doing chores. She thinks these folks do constitute a family.

She thinks in any household if you are using the same bathroom kitchen cooking meals for each other sharing communal spaces and utilizing them together. She stated there are new types of living; it is new to the state since 2018. She is not sure if there would be other zones that make more sense to be in. She assumes they believe they are protecting the residents. She believes they are operating as a family unit, someone is there making sure they are sober.

Mr. D 'Antonio does not think families are for profit.

Mrs. Levan stated to clarify; if someone is renting a house like a landlord would that be different.

Mr. D'Antonio stated yes there is someone there managing, so it does not seem like a family. He inquired if boarding houses allowed in our code. Mrs. Taylor yes as an accessory

Mr. Maguire stated you can have a boarding house. Mrs. Taylor stated yes with no more than 3 rooms, which would function much the same way.

Mrs. Taylor stated the applicant indicated the residents must sign an agreement agreeing to stay sober and if they do not they have to be removed. He did not indicate they were a threat but that they wanted to maintain sobriety. The state is requiring they maintain drug free or can lose a license.

### **Public Comments:**

Roberta Scott 303 Kenwood Dr.

She does not know why this one is being discussed now, when there is one around the corner from her. There is a sober living facility on Edgmoor. She inquired if this is denied will all of them be shut down too. Mrs. Levan cannot answer this question it is not before the board.

Mr. Maguire whatever happens here can impact them; however they would be a separate case. Mrs. Levan stated she is not aware of the house or how it operates so they cannot comment on this.

She was concerned that boarding houses only allow three and what makes it different with transient individuals. She stated a family in her opinion is a permanent thing it would not rotate in and out.

Erin Gill 2 W Walnut St.

She stated several residents have concerns, they are not here to disparage that anyone receives help for addiction or the need for recovery centers. She stated the question for the board; is this use permitted by the Township zoning laws. She feels it is not and stated they are transient boarding houses. She inquired why they skipped over the ordinance. Mrs. Taylor stated the application came to the administration as a request for interpretation and if they are considered a housekeeping unit. The applicant's Lawyer stated they are not skipping over the ordinance there is no doubt single family homes are permitted homes; however does this constitute as a family these are not boarding houses. She is concerned about the turnover of workers and residents, it is not consistent with family She feels it will change the character of the neighborhood.

Michael Suleta 717 Mill St.

He stated he was there for concept of family; persons living together as one housekeeping unit He went over the five factors for Oxford House:

1. Low turnover
2. Nonprofit operated

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3. Resident control
4. Freedom
5. No Therapy.

He stated HEF and Legacy are affiliated.

Mr. Maguire stated the Oxford case in 1993 which opened in 1985. There were no CSLR then.

Mr. Suleta feels it is not permitted due to these factors.

Matthew Long 11 Winterberry Rd.

Mr. Long inquired if the maintenance of the home constitute as part of the housekeeping unit's responsibilities. Mr. Devine stated there are chores assigned for kitchen duties, bathroom, individual rooms, and common room. He inquired about the maintenance of sweeping the chimney. Mr. Devine stated the Citadel takes care of that as well as the lawn.

Mr. Long inquired about the two onsite coordinators one at each home. Mr. Devine stated there is an Operator there 24 hours a day. They work in 9 hour shifts. There are about 4 to 5 employees for each home.

Michael Li 851 Cox Road

He stated they are very close. He is concerned that their backgrounds are self-disclosed. He wants his child to be safe, and wants a guarantee that there are no criminal or sex offenders. He hopes they check their background. Mr. Maguire stated he would be willing to look into it, he has to talk to council. Mr. Devine would be willing to take a different method and are willing to check. They do not take any violent offenders their goal is to be good neighbors. Mr. Li stated it is impossible to get to know them they keep changing.

Nancy Coleman 727 Iron Post Rd.

She lives across the street. She feels it is disheartening; her house is their biggest investment. She watches them go in and out every day and she feels it is not the right place for this use. She stated the employees take the trash and recycle in and out and never seen the mail carrier deliver mail there. She would like to see a record of the people that lived there in last 5 months as well as the average number of days they have been there. The applicant agreed.

She inquired if he was familiar with the Mt. Laurel property. He said he was. She stated the website is touting the homes with the Bartram address on there as a spa home with hot tubs big tvs

Earl Marx 558 Bartram Rd.

Mr. Marx inquired how Mr. Devine defines each client. He defines them as residents. They pay him by money order, credit card or money. The Citidel does not take insurance. He stated in a family unit you and your husband provide the income for the family. You do not have separate income sources coming in. Mr. Marx inquired if Mr. Devine would put it in writing that he does not take a referral fee no take insurance. Mr. Devine agreed to put in writing. Mr. Marx feels the sources of rent are not normal. He stated in the case the students funds came from a common fund. Mr. Maguire stated college students are not self-sufficient. He feels the other testimony has given them no other option but to deny them.

Mrs. Gill stated Mr. Devine said the residents do not come from the area. He said they do but not always. He stated a huge percentage stay in the area, when they relocate to get sober.

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David Lacerda 508 Bartram Rd. stated he is the neighbor of the Bartram property. He is disturbed of what he has heard here. He said in the call he was on; they stated only 30 days and could not leave the property unchaperoned. He stated he sees the vans leave and come back every day. He believes the testimony heard today has changed from the phone call.

Mr. Maguire inquired if there has been any changes. Mr. Lacerda stated different cars show up, there was throw up on the road and an ambulance that showed up to his house in error.

Greg Senlverian 824 Cox Rd.

He sees the folks every day. In the five months, the residents have fully turned over. He knows all his neighbors except the for those in the sober house. He believes they are not allow to socialize. He feels they are not neighbors. They keep changing constantly and rapidly. He feels it is not a residential home or single-family unit. They have not had many disruptions. It is hard to be neighborly they are not allowed to come pet the dog. He feels it is out of place. He feels they should be in a business district. He feels it is not a housekeeping unit but a business.

Dean DelVecho 111 Muirfield and 877 Cox Rd.

Everything he has heard about household unit he does not know how they cannot agree with the testimony he would be shocked if they allow it.

Mr. Hoff the applicant's attorney summed up the application. He stated the most important point is it is not operating as a boarding house. He stated in Mrs. Taylor's testimony she is perplexed as to why it is under boarding. He stated the individual here pays rent and has access to all common areas. He stated the idea of family has evolved. Mr. Hoff stated if it is not permitted here where is it permitted, these individuals have disabilities entitled to housing opportunities the state has created. The DCA expects the majority will be housed in single-family detached dwellings.

### **Board Deliberations:**

Mrs. Levan stated the question before the board isn't whether it should exist, it is; are they operating as a single-family housing unit. This is what the motion should state.

Mr. Vajapey inquired if a bed and breakfast is allowed in R1 zone. Per Mr. Maguire it is a conditional use and you have to come to the board for approval. Mrs. Levan stated there are no ordinances in Moorestown. Mr. Clifford stated our ordinance does not address it.

Mr. Creeley he appreciates the neighbor's perspective and understands the frustration and angst of the residents. He feels it is a single-family unit. Mrs. Schill reiterates what Mr. Creeley says Mrs. Gallo does not understand how a business can define themselves as they do. In her opinion, they are using the protection of all these organization to pretend they are something they are not. She feels it will impair the intent of the zoning plan and ordinances. She does not like how they opened the business

Mr. DAntonio stated the DCA has dictated this is an allowable use; they did not have to apply to Moorestown they applied through the state and received a license so they can operate. He does not see the transient nature being a family unit he is having trouble supporting this as well.

Mr. Vajapey is struggling because he does not like it. He is not in favor of it.

Mr. Maguire we have state law that was put in place. The areas are gorgeous where they are in He sees it something they do not like ultimately the state will win in the end. He is in support of it. If

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the board goes the other way they will have to fight it in court. Mrs. Levan inquired if Mr. Hoff would like to ask for a continuance. He stated he prefers a full vote of the board. Mr. Maguire granted a continuance. The 7th member of the board will listen tonight and it will be continued to the August 31<sup>st</sup> meeting.

### **ADJOURNMENT**

A motion to adjourn was made by Mrs. Schill and seconded by Mr. Clifford. The meeting was adjourned at 10:53 pm.