

Town of Reading Zoning Board of Appeals

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The Decision of the Board of Appeals on the Petition of OCT 16 P 12: 53

**Artis Senior Living, LLC
On the Property Located at
1090-1100 Main Street
Reading, Massachusetts
Case No. 13-18**

October 3, 2013

The Zoning Board of Appeals (the Board) opened a public hearing in the Selectmen's Meeting Room at the Town Hall, 16 Lowell Street, Reading, Massachusetts at 7:00 PM on Thursday, October 3, 2013, on the petition of Artis Senior Living, LLC, who sought a Variance/Special Permit under Section 4.3.1.4 of the Reading Zoning Bylaw (the Bylaw) in order to develop and use the premises as a 64-bed nursing home/memory care/assisted living facility on the property located at 1090-1100 Main Street, Reading, MA.

The Petitioner was represented by Latham Law Offices, LLC, who along with Peter Ogren, PLS of Hayes Engineering of Wakefield, MA and James K. Emmanuel of James K. Emmanuel Associates of Marblehead, MA detailed the proposal and the benefits and impact upon the property and the community.

The Applicant requested that the Board issue a nursing home special permit pursuant to Section 4.3.1.4 of the Reading Zoning Bylaw. The criteria in the Bylaw and Petitioner's response to the criteria are addressed as stated below:

- a. The lot(s) on which the nursing home is to be located either abuts or is partially within a Business A District, or is separated therefrom only by an Interstate Highway; or the lot(s) on which the nursing home is to be located currently has frontage on a State highway, and the proposed driveway is within 600 feet of a signalized intersection. A lot shall be considered as abutting Business A District unless that lot actually, physically touches the Business A District, or is separated therefrom only by an Interstate Highway. A lot on the other side of or separated by a local street or state highway from the Business A District shall not be considered to "abut" that district for the purpose of this section.

Petitioner's Response: The property currently has frontage on a State highway (Route 28) and the proposed driveway is within 600 feet of a signalized intersection.

- b. Any structure or parking area shall be located not closer than twenty-five (25) feet to any property line abutting a residence or local public street.

Petitioner's Response: The building is not closer than twenty-five feet to any property line abutting a residence. The Board granted a special permit in Case 13-01 to allow the parking area to be ten feet from southerly property line and Main Street.

- c. The nursing home structure shall not be less than eighty (80) feet from the nearest dwelling existing at the time of application for the Special Permit.

Petitioner's Response: The structure is not less than eighty (80) feet from the nearest dwelling existing at the time of application for the Special Permit. The referenced plans show the distances.

- d. The lot shall be not less than three (3) acres in size with not less than three hundred (300) feet of frontage on an existing public way.

Petitioner's Response: The site has 3.65 acres of land and has 309.15 feet of frontage on an existing public way.

- e. The nursing home shall be tied into municipal water and sewer service when constructed.

Petitioner's Response: The facility will be tied into municipal water and sewer service when constructed.

- f. Prior to making application to the Board of Appeals for a Special Permit for a nursing home under this Section, the applicant shall obtain site plan approval from the Community Planning and Development Commission pursuant to Section 4.3.3 of the Bylaw.

Petitioner's Response: The applicant has obtained site plan approval from the Community Planning and Development Commission pursuant to Section 4.3.3 of the Zoning Bylaw.

- g. The nursing home shall meet all applicable building code requirements and shall have property installed and maintained fire safety devices and shall conform to all applicable local and State regulations and statutes for the protection of all occupants in the nursing home.

Petitioner's Response: The facility shall meet all applicable building code requirements and shall have properly installed and maintained fire safety devices and shall conform to all applicable local and State regulations and statutes for the protection of all occupants in the nursing home.

- h. Sideline planting shall be required for any sideline of the lot which abuts land being used for residential purposes. The sideline planting shall be at least five feet wide, shall be free of any paving and shall extend from the street line to twenty feet beyond the deepest point on the premises having buildings or parking areas. The full length of the planting area shall be provided with screening through plantings at least four feet high when planted. Fencing may be used in conjunction with such screening.

Petitioner's Response: Great attention has been paid to the landscaping and screening. The applicant has met with each abutter and has designed the plantings and screening to meet each abutter's request. The CPDC has reviewed this in detail as part of the site plan review process. A landscape architect has been engaged to design the landscaping. The plantings, extensive fencing and other screening are shown on the submitted plans.

- i. Front screening shall be provided between the building and the street line through a staggered row of trees, planted or retained, having at least a two inch trunk diameter and being of size, specie and spacing such that the tree crowns will approximately meet each other at maturity. All trees used for front screening shall be of species common to the area and which reach an ultimate height of not less than thirty feet.

Petitioner's Response: Front screening shall be provided between the building and the street lien through a staggered row of trees, planted or retained, having at least a two inch trunk diameter and being of size, specie and spacing such that the tree crowns will approximately meet each other at maturity. All trees used for front screening shall be of species common to the area and which reach an ultimate height of not less than thirty feet.

- j. If at the time of application for a Special Permit under this provision, there is one or more single family dwellings situated on the lot or lots immediately abutting and to the rear of

the lot upon which the nursing home is proposed, the Board of Appeals may require reasonable rear lot line plantings for screening purposes.

Petitioner's Response: There are single family dwellings situated on the lots immediately abutting and to the rear of the lot upon which the facility is proposed. The Applicant has proposed extensive plantings and screening. Plantings and an attractive, wooden eight foot high fence is proposed on the southerly side of the site. The lots behind the site are at a significantly higher elevation than the site, which itself creates some screening. There will be retaining wall along the rear of the site. There will be plantings behind that retaining wall at the higher elevation. This is all shown on the plans submitted.

- k. There shall be provided in perpetuity on site or off-site, in a manner acceptable to the Reading Housing Authority, a minimum allocation of ten percent of the total units, unless otherwise regulated, relative to the development, which total units shall be affordable to very-low-income, low-income, and moderate-income families and/or elderly households as determined by the most recent calculations of the U.S. Department of Housing and Urban Development for the Boston Metropolitan Region and/or the Commonwealth of Massachusetts, Department of Housing and Community Development. If acceptable to the Reading Housing Authority with input from the Community Planning and Development Commission, this requirement may be satisfied by the payment to the Town or an agency thereof a monetary sum in lieu of provision of actual affordable units in or relative to the development for provision or enhancement of affordable housing in the Town of Reading.

Petitioner's Response: The Town and the Petitioner have agreed prior to the hearing upon a monetary sum certain in lieu of provision of actual affordable units.

A motion was made and seconded and the Board voted 5-0-0 in the affirmative to grant a Special Permit under Section 4.3.1.4 of the Bylaw to Petitioner Artis Senior Living, LLC, in order to develop and use the premises as a 64-bed nursing home/memory care/assisted living facility the property located at 1090-1100 Main Street Reading, MA as reflected and consistent with: (1) the drawings numbered C-1 through C-8 prepared by Hayes Engineering of Wakefield, Massachusetts and David L. Hoffman, FAIA, Architect of Wichita, KS and stamped by Professional Engineer Peter J. Ogren of Hayes Engineering Wakefield, Massachusetts, dated May 29, (Hayes) and June 3, 2013 (Hoffman), appended to the Petition. A condition of the Board's approval shall be that the Applicant shall ensure that the facility shall meet all applicable building code requirements and shall have properly installed and maintained fire safety devices and shall conform to all applicable local and State regulations and statues for the protection of all occupants in the nursing home:

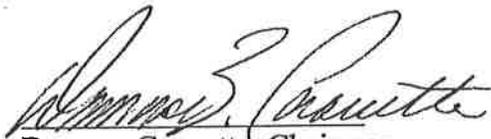
Any person aggrieved by this decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws Chapter 40A, Section 17, within twenty (20) days after the date of filing of this Decision with the Town Clerk. Notice of an appeal with a copy of the

complaint must also be filed with the Town Clerk within twenty (20) days as provided in Section 17.

This Variance shall not take effect until a copy of this Decision, bearing certification of the Town Clerk that twenty (20) days have elapsed after the Decision was filed in the Office of the Town Clerk and no appeal has been filed, or if an appeal has been filed within such time, is recorded in the Middlesex South District Registry of Deeds and indexed in the Grantor's Index under the name of the owner of record, or is recorded and noted on the Owner's Certificate of Title. The fee for recording or registering shall be paid by the Owner or Petitioner.

The person exercising rights under a duly appealed Variance does so at the risk that a court may reverse the permit and that any construction performed under the permit may be ordered to be undone.

ON BEHALF OF THE READING ZONING BOARD OF APPEALS



Damase Caouette, Chairman

Board members voting on Case No. 13-18

For Granting: Damase Caouette, Robert Redfern, John Jarema, Kathleen Hackett and David Traniello.