

RECORD OF PROCEEDINGS

Minutes of the Public Hearing of the Trustees of Sycamore Township Sycamore Township, Hamilton County, Ohio

October 4, 2022

The public hearing for Zoning Case 2021-11MA, Landmark Recovery of Louisville, LLC., 4650 E. Galbraith Road, was called to order at 6:00 p.m. by Chairman Weidman.

Present for the hearing were Chairman Weidman, Vice Chairman Schwegmann, Trustee James, Law Director Barbieri, and Planning & Zoning Administrator Miller.

Mr. Miller presented the case and case history for Zoning Case 2022-11MA. He stated the applicant is Landmark Recovery of Louisville, LLC who is proposing an inpatient substance use disorder facility at 4650 E. Galbraith Road. He noted Michelle Lubbert, of Landmark Recovery, and Randy Merrill of MSP, were present for the applicant.

Mr. Miller showed the site in question on the screen and described the adjacent zoning districts. He said the site was previously used as a memory care facility called Carriage Court. Mr. Miller described the topography and noted the current ISR is .65. He said an updated plan increased parking and therefore increased the ISR by a few points, not significantly.

Mr. Miller read the staff report he had prepared for the record. He reviewed the case history for the site. He then read the zoning compliance review stating the applicant proposes a modification to an approved PUD to allow a change of use for a 160-bed inpatient substance use disorder facility. He read the discussed the change of use noting in the Sycamore Township Zoning Resolution, the applicant's specific use is defined as a halfway house, a use that would require a rezoning which would be inconsistent with the Township's recently adopted Land Use Plan.

Mr. Miller read the parking calculations noted in the staff report which find the applicant's revised site plan to have a 46.9% deficit in parking spaces. He then reviewed the findings in the staff report in response to the applicant's "Request for Reasonable Accommodation" submitted on September 27, 2022 which states the Board must grant a variance per Title II of the American with Disabilities Act based upon the change from a hospital use to a nursing home use. Staff argues the applicant errs in suggesting the use is not defined in the Zoning Resolution, noting the specific use is defined as a halfway house or could fit the definition of a hospital. The staff report states the applicant's request for reasonable accommodation does not justify using the nursing home parking standard and concludes a reasonable accommodation request could be grounds for a variance, but a maximum 25% reduction in the parking standard still would leave a 29.2% deficit in parking spaces.

Mr. Miller points out in the staff report that the additional 22 parking spaces proposed in the revised site plan submitted by the applicant increases the ISR for the site and that outside agency reviews should be reviewed prior to any final approval of site improvements.

Mr. Miller goes on to read the staff report's finding that the proposed use as a hospital is not in conflict with the land use plan but does require a Major Adjustment to the PUD. He then read the summary of the public hearings before the Zoning Commission stating the Zoning Commission recommended denial of the request based on concerns related to the intensity of the proposed use and insufficient parking.

The staff report concludes that while the hospital use is consistent with the land use plan, due to the use intensity and parking shortage, the applicant's lack of justification for a reasonable accommodation request under Title II of the ADA, as well as the increase in ISR and lack of review from outside agencies, the recommendation of staff is denial of the application.

Mr. Barbieri swore in those providing testimony for the public hearing including the applicants and members of the public.

Mr. Weidman asked if the applicant was present and wished to speak.

Michelle Lubbert, of 720 Cool Springs Blvd, Nashville, TN, Director of Sourcing & Zoning for Landmark Recovery, addressed the Board. Ms. Lubbert showed a slide presentation with information about Landmark Recovery's mission, programs, and facilities and why they have chosen Sycamore Township as the location to expand their treatment facilities in Ohio. She listed the locations in which they are already operating or about to open new facilities around Ohio.

Ms. Lubbert stated Landmark Recovery's mission is to provide licensed, accredited, evidence-based, and compassionate treatment programs throughout the country, within two hours of each major metropolitan area and to save one million lives over the next 100 years. She stated Landmark specializes in providing high quality, evidence-based services, and programs for those affected by alcohol and drug addiction. Ms. Lubbert went on to explain the process followed for residential in-patient treatment noting Landmark does not use Methadone as part of their treatment medical detox program. She described a typical day in the facility, the rules for admissions and visitors, as well as facility security.

Ms. Lubbert reported on drug overdoses in the State of Ohio and in Hamilton County using statistics from the CDC and from Hamilton County. She then reviewed common misconceptions about drug treatment facilities stating that they do not raise neighborhood violence or lower property values. Ms. Lubbert argued the proposed use is aligned with the character of the area and adjacent properties including Jewish Hospital.

Ms. Lubbert stated the proposed occupancy is 160 beds; the facility will create 103 jobs with an average income of \$60,000; and the estimated tax revenue through payroll is half a million dollars. She went on to address staff's and the Zoning Commission's concerns about parking deficiencies. She argued the Sycamore Township Zoning Resolution does not include a use specific to a residential treatment facility and Landmark has submitted a reasonable accommodation request under the ADA to be permitted to follow the parking requirements of a nursing home. She went on to explain the efforts Landmark had made to date to alleviate the parking concerns. Ms. Lubbert also noted the individuals in outside agencies who were supplied the proposal noting none of them expressed immediate concerns.

Ms. Lubbert concluded by reviewing the important points demonstrated in her presentation and requesting the Board approve Landmark Recovery's Major Adjustment to a PUD application and reasonable accommodation request regarding parking.

Mr. Weidman invited members of the public to speak in regard to this case.

Susan Weeks, of 7970 Merrymaker Lane, addressed the Board. Ms. Weeks stated she lives close to the site in question and is a retired Nursing Professor with experience with addicted patients. She said her main concern is the intensity of the proposal with 160 beds for patients who are addicted and possibly mentally ill. She expressed concerns about safety in the nearby residential areas. Ms. Weeks said the neighbors support treatment, but the facility is not wanted in this highly residential neighborhood.

Mr. Barbieri said he knows the Trustees appreciate Ms. Weeks' concerns; however, he must state for the record this is a zoning hearing. He said unless we have hard evidence on the issues Ms. Weeks has discussed, which we do not, the Trustees cannot consider the types of patients or the possibility of crime. He pointed out they may only consider facts that are sworn to under oath and that deal with the zoning issues. Mr. Barbieri stated he said that as the Law Director from a strictly legal perspective.

Michelle Graves, of 4246 Happiness Way, addressed the Board. Ms. Graves stated the use is a hospital and should be held to the space requirements for a hospital, therefore, the request should be denied.

Rita Lambers, of 7933 Frolic Drive, addressed the Board. Ms. Lambers said she agrees with Ms. Graves this is a hospital. She questioned some of the things Ms. Lubbert said. She said having counselors come in for therapy sessions requires parking spaces. She noted telehealth family therapy sessions may not be possible if families do not have the necessary equipment. Ms. Lambers stated she read about Landmark's other facilities online and raised questions for the applicant from her research. She stated she does not think there is enough parking.

Carol Martini, of 8098 Merrymaker Lane, addressed the Board. Ms. Martini discussed an article in the paper about a similar situation in which only a small percentage of the people utilized the services provided. She asked how many nurses and other employees will be at the facility after 5:00 p.m. She said at a previous meeting, it was noted there would be one nurse per 60 beds after 5:00 p.m. and no security from 10:00 p.m. to 6:00 a.m. Ms. Martini stated the applicant is going to call the use what they want to, to get the parking spaces to work. She noted her house is the closest to the site and she and her neighbors are against the proposal.

Mr. Weidman closed comments from the public and allowed the Board to ask questions.

Mr. James asked Mr. Miller if the applicant's remarks about parking changes anything for him.

Mr. Miller answered no, staying the current staff report stands. He said the proposal has evolved over time and had to be evaluated in different ways, but staff has maintained throughout that the

use is most appropriately defined as a hospital. He said the hospital requirement is one space per bed which is consistent with multiple codes throughout the County.

Mr. Weidman asked Mr. Barbieri about the applicant's letter which states the reasonable accommodation request must be granted under Title II of the ADA.

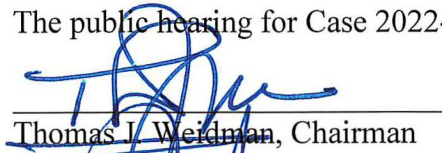
Mr. Barbieri said the law is if a requested accommodation is reasonable and will not place an undue burden on the Township, then it should be considered. He stated he does not believe that Landmark Recovery has a license to operate a nursing home nor a certificate of need, so they are not a nursing home. He said a hospital requires 160 parking spaces; if it is a halfway house, over 200 parking spaces would be required. Therefore, the most the Board can do as a variance under the Zoning Resolution is decrease it by 25 percent which still is not close to the number of parking spaces they propose. Mr. Barbieri said a reasonable accommodation in his view is not to call it something it is not. He said the Zoning Resolution would not allow a reasonable accommodation of a reduction of more than 25 percent in parking spaces, and the proposal is not far off 50 percent.

Mr. Weidman addressed Ms. Lubbert stating he has been with the Township for 28 years, 17 years as a Trustee and before that in Zoning, and he has never had anyone come in and suggest we should call a use something it is not. He said if he had not seen the staff report, he would assume this is a halfway house and the fact that it is being looked at as a hospital is quite an accommodation to her facility. Mr. Weidman said for her to state this is a nursing home when Ohio Law says you must have a license and they do not have that; and they have never demonstrated a certificate of need for more beds from 135 to 160. He reiterated calling it a hospital is quite an accommodation to the applicant because in his opinion it is a halfway house.

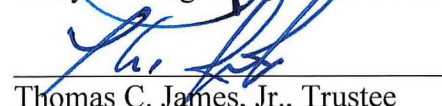
Mr. Weidman asked if the Board had any questions for the applicant.

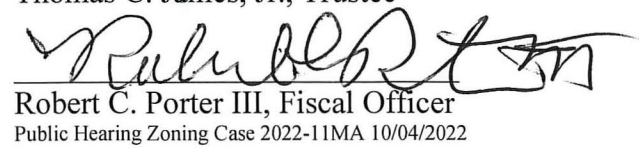
The Board had no questions. Mr. James commented that the Board admires Landmark Recovery's mission; the question is does the proposal fit with the Zoning Code.

The public hearing for Case 2022-11MA adjourned at 6:53 p.m.


Thomas J. Weidman, Chairman


Tracy Schwegmann, Vice Chairman


Thomas C. James, Jr., Trustee


Robert C. Porter III, Fiscal Officer