



TOWN OF OSSINING

The Volunteer Spirited Town

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July 10, 2017

Via Overnight Mail and Email

Town of New Castle Planning Board
200 South Greeley Avenue
Chappaqua, NY 10514

Re: Sunshine Children's Home and Rehab Center Application

Dear Chairman Kirkwood and Members of the Planning Board:

I write on behalf of the Town Board of the Town of Ossining ("Town Board") with respect to the Sunshine Children's Home ("Sunshine") application for various approvals related to its proposed expansion of its facility from 54 beds to 122 beds and related improvements and modifications. Given that the Town of Ossining abuts the Sunshine property and the Town of Ossining has an existing agreement to provide Sunshine with a fixed daily level of sewer capacity, the Town Board has been following this application closely and has some outstanding concerns it wishes to convey to the Planning Board. The Town Board understands that the Planning Board closed the public hearing but will be receiving written comments until July 10, 2017.

The Town of Ossining has an agreement with Sunshine whereby Sunshine can discharge up to 10,000 gallons per day of sewage flow through the Town of Ossining's municipal sewer system. Ten thousand gallons per day was the acknowledged design flow at the time Sunshine's sewage disposal system was installed. This agreement was based upon the lower-intensity use of the property before this proposed expansion. Throughout the review process before the Town of New Castle Zoning Board of Appeals ("Zoning Board"), which served as lead agency for the SEQRA review and also granted a special permit and certain variances, the Town Board understood that due to the increase in the number of beds to 122 and the related increase in sewage production, Sunshine would be required to enter into an amended agreement with the Town of Ossining to account for the anticipated increase in flow, which would exceed what was permitted by the agreement. However, mere days before the Zoning Board issued its Negative Declaration and other approvals, the applicant proposed to reduce the number of beds from 122 to 118, which would allegedly reduce the anticipated flow to an average of 9,997 gallons per day.

The Town Board expressed numerous concerns with this modification at the time it was made. First, it was done after the public hearing was closed, thus precluding the public from

commenting on this substantial modification, which eliminated a crucial layer of oversight to ensure that there were no adverse environmental impacts from the proposed expansion. Second, the Town Board objected to the method of calculation as the applicant's anticipated sewage production was based upon historic average flows and not peak flows, even though Sunshine is permitted to use a maximum of 10,000 gallons per day. Therefore where the estimated daily average is a mere 3 gallons per day less than the maximum amount permitted under the agreement, it is inevitable that at times the actual flow will exceed the 10,000 gallons per day threshold. This not only violates the terms of the agreement, but also has the potential to create numerous negative impacts where the facility was only designed to accommodate 10,000 gallons per day; and yet this system, which is decades old, will be forced to accommodate much more than that.

When considering this application and deciding whether to issue approvals, please keep in mind that any approvals or determinations made by the Zoning Board, the Planning Board, or any other involved agency for the Sunshine application, does not inhibit the Town of Ossining's ability to enforce its contractual rights. Even though the Town of New Castle may determine that Sunshine will not be in violation of the agreement based upon its method of calculation, the Town of Ossining is certainly not bound by that interpretation. If the Town of Ossining, based upon its own independent monitoring and testing of the facility, determines that Sunshine is violating the terms of the agreement by discharging more than 10,000 gallons in a single day, the Town Board has every right to pursue all legal rights and remedies available to it in order to protect its residents and its public services and resources.

In addition, the Town Board is concerned about access to the Sunshine facility both during construction and otherwise. Cedar Lane Park is owned and operated by the Town of Ossining and is adjacent to the Sunshine site. While there are internal roads within the park that are used to access and traverse the park, these roads have never been authorized, and are not authorized, to be used for access to Sunshine other than in the case of an emergency. The Town of Ossining does not agree to allow use of these park roads to provide access to Sunshine for any purpose other than emergency vehicles; this includes prohibiting access by Sunshine employees, construction workers, construction vehicles, deliveries, etc. In considering or issuing any determinations on this application, the Town Board asks that the Planning Board keep this in mind and limit access to only those roads that Sunshine has a right to utilize. As with the sewer capacity, if the Town believes its rights are being violated and its property encroached upon, it is within its right to pursue all legal remedies available regardless of any approvals or determinations issued by the Town of New Castle.

Lastly, given the proximity of the Sunshine property to Ossining and its residents and the topography and environmentally sensitive condition of the area, it is especially important to the Town Board to ensure that there are no impacts from stormwater or drainage. Sunshine is also adjacent to the Indian Brook Reservoir, which is a water source for many Ossining residents. In addition, the Town Board is also very concerned about the potential impacts on water since it is this Board's understanding that after the Zoning Board issued its approvals more environmental concerns arose regarding the silver mine that is on the Sunshine property. In light of these factors, the Town Board asks that prior to issuing any further approvals the Planning Board be

absolutely certain that there will be no impacts to water supply or water contamination as a result of the proposed expansion.

The Town Board has reviewed the memorandum submitted by the Town of New Castle Deputy Town Engineer dated June 18, 2017. The Deputy Town Engineer identified numerous issues that require further analysis and/or updated information in order to ensure that the proposed stormwater management is sufficient. In addition, the memo also addresses comments that were made by the Deputy Town Engineer in memoranda dated May 1, 2017, December 15, 2016 and October 28, 2016, which appear to have not been addressed by the applicant to date. As the Planning Board has received the Deputy Town Engineer's memorandum, we will not go into detail about the issues raised therein, but more broadly wish to express the Town Board's concern that the Planning Board would close the public hearing prior to all of these issues being addressed. Until these issues are adequately addressed it is impossible for the Planning Board to determine if the proposal is satisfactory to the Planning Board's consultants and complies with all applicable laws, rules and regulations. Moreover, once the applicant has provided the requested information the public should have an opportunity to review and provide public comment on the additional information prior to the public hearing being closed. In light of this, the Town Board requests that the Planning Board vote to reopen the public hearing until such time that the applicant has sufficiently addressed all outstanding issues raised by the Planning Board's consultants with respect to stormwater management and drainage.

Thank you in advance for your consideration of this issue. Please do not hesitate to contact me if you have any questions or wish to discuss this further.

Best,

A handwritten signature in black ink, appearing to read 'Dana Levenberg', with a long, sweeping flourish extending to the right.

Dana Levenberg
Ossining Town Supervisor

Karen D'Attore, Elizabeth Feldman, Kim Jeffrey, Northern Wilcher Jr.
Ossining Town Board

cc: Via E-mail

Janice Friend – Town of New Castle Planning Board Secretary
Sabrina Charney Hull, AICP – Town of New Castle Director of Planning
Hon. Robert Greenstein—Town of New Castle Supervisor
Jennifer Gray, Esq. – Town of New Castle Planning Board Attorney
Robert J. Cioli, P.E. – Town of New Castle Deputy Town Engineer
Mark P. Weingarten, Esq. – Attorney for Applicant
Hon. Victoria Gearity – Ossining Village Mayor
Paul Fraioli, P.E. – Village of Ossining Interim Village Manager and Engineer
Andrew Tiess—Village of Ossining Water Superintendent