BOROUGH OF HILLSDALE
PLANNING BOARD
RESOLUTION NUMBER 2022-12
CASE NUMBER PZ-11-21

WHEREAS, an application has been submitted by New Concepts for Living (the "Applicant") for property known as 33 Ruckman Avenue, Hillsdale, New Jersey and identified as Block 2004, Lot 3 (the "Property"); and

WHEREAS, the Applicant applied for variance relief and design exceptions and waivers for the construction of a six-bedroom group home on the Property; and

WHEREAS, the Applicant was represented by William Smith, Esq., Smith Crotty, Meyer & Bruins, 851 Franklin Lakes Road, Franklin Lakes, NJ 07417; and

WHEREAS, the Board considered the reports of Christopher P. Statile, PE, dated November 24, 2021, March 14, 2022 and March 18, 2022, as well as the report of Thomas Behrens, Jr., PP, AICP dated January 20, 2022; and

WHEREAS, the Board determined that the application was complete and that a public hearing be conducted by the Board; and

WHEREAS, public hearings were held on January 25, 2022 (remote); February 22, 2022 (remote) and March 22, 2022 (in-person); and

WHEREAS, the Applicant presented the following fact witnesses, who were duly sworn to testify in support of the application: Steve Setteducati, CEO ("Mr. Setteducati") of New Concepts for Living, 68 West Passaic Street, Rochelle Park, NJ 07662; Steve Costantin ("Mr. Costantin") Property and Construction Manager of New Concepts for Living, 68 West Passaic Street, Rochelle Park, NJ 07662; and

WHEREAS, the Applicant presented the following expert witnesses, who were duly sworn and qualified to provide expert testimony in support of the application: the Applicant's Planner, David Spatz, P.P., AICP ("Mr. Spatz") of Community Housing & Planning Associates, 60 Friend Terrace, Harrington Park, NJ 07640; the Applicant's Engineer, James Feury, P.E. ("Mr. Feury") of Azzolina & Feury Engineering Inc., 30 Madison Avenue, Paramus, NJ 07676; and the Applicant's Architect, William G. Brown, MBA, AIA ("Mr. Brown") of William G. Brown Architects, 241 Madison Avenue, Wycoff, NJ 07481; and

WHEREAS, the Board Engineer, Christopher P. Statile, PE ("Mr. Statile") and the Board Planner, Thomas Behrens, Jr., PP, AICP ("Mr. Behrens") were duly sworn and testified at the hearings before the Board; and

WHEREAS, along with the application, the Applicant submitted the following:

1. Survey of Property prepared by Mark S. Martins, PLS of Mark Martins Engineering, LLC, 55 Walnut Street, Suite 201, Norwood, NJ 07648, dated March 12, 2018, consisting of 1 sheet; and
2. Site Plan drawn by James Feury, P.E. and checked by Perry E. Frenzel, P.E. of Azzolina & Feury Engineering, Inc., 30 Madison Avenue, Paramus, NJ 07676, dated September 21, 2021, consisting of 6 sheets; and
3. Architectural Plans prepared by William G. Brown, MBA, AIA of William G. Brown Architects, 241 Madison Avenue, Wycoff, NJ 07481, dated October 22, 2021, consisting of 4 sheets; and
4. Seepage Pit Design prepared by Azzolina & Feury Engineering, Inc., 30 Madison Avenue, Paramus, NJ 07676, dated September 21, 2021, consisting of 4 sheets; and

5. Memorandum prepared by David Spatz, P.P., AICP of Community Housing & Planning Associates, 60 Friend Terrace, Harrington Park, NJ 07640, dated January 14, 2022, consisting of 4 sheets; and
6. Colorized Building Rendering prepared by William G. Brown, MBA, AIA of William G. Brown Architects, 241 Madison Avenue, Wycoff, NJ 07481, undated, consisting of 1 sheet; and
7. Revised Site Plan drawn by James Feury, P.E. and checked by Perry E. Frenzel, P.E. of Azzolina & Feury Engineering, Inc., 30 Madison Avenue, Paramus, NJ 07676, dated March 2, 2022, consisting of 6 sheets; and
8. Revised Architectural Plans prepared by William G. Brown, MBA, AIA of William G. Brown Architects, 241 Madison Avenue, Wycoff, NJ 07481, dated March 1, 2022, consisting of 4 sheets; and
9. Photographs of the current site conditions, undated, consisting of 6 pages; and

WHEREAS, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject premises of the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of Hillsdale and provided proof of service of such notice in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and the Municipal Land Use Law (the "MLUL"), N.J.S.A. 40:55D-1 to -163; and

WHEREAS, the Applicant submitted proof that a copy of said notifications were published at least 10 days prior to the date set forth for public hearing in the official newspaper

of the Borough of Hillsdale in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and the MLUL; and

WHEREAS, the Board gave due consideration to all individuals desiring to be heard and after due deliberation, did find and determine that:

The Property

1. The Property is located at 33 Ruckman Avenue and is designated as Block 2004, Lot 3.

2. The Property consists of 22,172 square feet (approximately 0.51 acres)

3. The Property is located across from Meadowbrook Elementary School in the R-2 Residential Zone. The minimum lot area in the R-2 Zone is 15,000 square feet.

4. The Property was previously improved with a dwelling, an accessory structure and an asphalt driveway. The buildings have been removed and some remnants of the driveway remain.

The Application

5. The Applicant is a non-profit organization that provides housing for developmentally handicapped individuals. The Applicant proposes to build a new, single-story group home for 6 individuals to live as a family and receive 24/7 care from the Applicant's trained staff. The Applicant proposes a parking area with 8 parking spaces for visitors and staff in the rear of the proposed home.

6. The proposed home would contain 6 bedrooms, 3 bathrooms, a library and media room, an office, common kitchen and laundry area. The rear portion of the building would have a basement.

7. The initial application proposed would exceed the maximum permitted building coverage and maximum permitted impervious coverage. In addition, the initial application proposed would encroach into the required front yard setback area.

Proposed Variances

8. Mr. Statile's report, dated November 24, 2021, stated that the application is considered a residential bulk variance application. The application was reviewed against the Checklist for Variance Applications and was deemed complete.

9. In addition, Mr. Statile identified the following variance relief required for the initial application:

(a) Building Coverage: 22.8% proposed (5,051 square feet) where a maximum of 20% is permitted (4,434 square feet), a difference of 2.8% or 617 square feet.

(b) Impervious Coverage: 44.8% proposed (9,934 square feet) where a maximum of 30% is permitted (6,652 square feet), a difference of 14.8% or 3,282 square feet.

(c) Front Yard Setback: 43.2 feet proposed, up to covered concrete walkway, where a minimum of 50 feet is required, a difference of 6.8 feet.

10. Pursuant to the Federal Fair Housing Act and the MLUL, the group home use is permitted as of right in all residential districts in the Borough. Accordingly, no use variance was required.

Remote Public Hearing on January 25, 2022

10. William Smith, Esq. ("Mr. Smith") of Smith Crotty, Meyer & Bruins, 851 Franklin Lakes Road, Franklin Lakes, NJ 07417 appeared on behalf of the Applicant at the

January 25, 2022 public hearing. Mr. Smith explained that the Applicant is a 501(c)(3) non-profit organization that provides housing for developmentally handicapped individuals. The Applicant buys single-family homes and allows 4 to 6 individuals to live as a family in the home. The Applicant provides everything residents need, including staff. The Applicant is looking at the Property as an opportunity to provide this inherently good use for the Hillsdale community and for its clients.

11. The Board heard testimony from Mr. Setteducati, CEO of New Concepts for Living. Mr. Setteducati testified that the Applicant operates group homes or community residences for developmentally disabled adults, as well as a day program. The Applicant currently operates 13 homes and, if the subject application is approved, will have 5 more under construction. One of the current homes is located in Hillsdale and has been operating since the 1980s. The other homes are located in Clifton, Haledon, Teaneck, Park Ridge, River Edge, Mahwah (2), River Vale (2), and Emerson.

12. Mr. Setteducati testified that he is familiar with the Property, which was previously improved by a dwelling. Mr. Setteducati testified that the Property was chosen after searching for one and a half years as there are not many suitable properties in the Borough or neighboring municipalities.

13. Mr. Setteducati testified that the homes operated by the Applicant are similar in every way to single-family homes. The primary focus is that an individual walking or driving by would not know there was a group home at the site. The buildings look like any other residence, fit into the character of the neighborhood, and integrate into the community.

14. Mr. Setteducati testified that the application proposes 6 residents in the home. The residents will be what is deemed medically fragile developmentally disabled adults. These are

special needs persons with advanced medical needs where there is a degree of specialized training necessary for care. None of the proposed residents will drive a vehicle. The residents attend the day program in Rochelle Park Monday through Friday and are taken for medical care and doctor visits as necessary. The residents will be taken out some evenings and weekends to integrate into the community.

15. Mr. Setteducati testified that the Applicant has its own fleet of newer vehicles/vans with lifts. The application proposes that 2 vans would be stored on the Property. The Property would have 2 to 4 staff members on site at all times for the 6 residents, but in general there would be 3 staff members on duty, one of which is a Licensed Practical Nurse ("LPN") or Registered Nurse ("RN"). Staff members do not live on-site. There are alternating shifts of employees.

16. Mr. Setteducati testified that the group home will be licensed by the State of NJ through the Department of Developmental Disabilities. There are stringent standards to be adhered to for the home. The other homes operated by New Concepts for Living pass their annual inspections with no problem.

17. The Board members had no questions for Mr. Setteducati with regard to his testimony. The meeting was open to the public and no one appeared with any questions.

18. The Board then heard testimony from the Applicant's architect, Mr. Brown, a licensed professional architect of the State of New Jersey.

19. Mr. Brown testified that the proposed home contains approximately 4,000 SF and is a single-story ranch. The doorways, hallways and other internal features will meet the State specifications for group homes. The building contains 6 bedrooms, a library, an exercise room, kitchen, family room and 3 bathrooms.

20. Mr. Brown placed the plan he prepared on the screen for viewing by the meeting participants. Mr. Brown testified that Sheet A-1, issued for variance October 22, 2021, depicts the front elevations and shows a single-story building on grade with a small basement. There will be shingle siding and metal roofing, with columns, double-hung windows, stone and clapboard, and Mr. Brown opined that the building would fit nicely into the neighborhood.

21. Mr. Brown testified that Sheet A-2 depicts the basement.

22. Mr. Brown testified that Sheet A-3 is the first-floor plan, which shows the front door, 2 bedrooms to the right and 2 bedrooms to the left, each set of bedrooms with a jack-and-jill bathroom. There are 2 additional bedrooms with a shared bathroom on the rear left of the building. On the right rear is a library, laundry, kitchen, dining area, media area and office. There is an additional bathroom on the right for the staff, as well as a portico in the rear to take residents in and out of the building in inclement weather.

23. Mr. Brown testified that Sheet A-4 depicts the rear elevation showing the breakfast area on the left, the media area, rear entrance and portico. The building is approximately 26 feet high to the ridge. There is a staircase down to the mechanical equipment area.

24. Mr. Smith explained that one of the variances applied for is for building coverage. In response to a question from Mr. Smith, Mr. Brown explained that because this is a single-story building the building coverage is higher than it would be for a multi-family home.

25. Mr. Brown testified that the building is single-story for safety reasons for the residents. Elevators and stairs would not work efficiently for such a building, so everything is on 1 floor. The doors and halls are wider to accommodate wheelchairs and beds. All of this creates a larger building footprint and necessitates variance relief for building coverage.

26. Mr. Brown testified that there is a vestibule at the rear of the home, and the majority of the traffic into and out of the building will be through the rear door. The front entrance is more architecturally pleasing to create a nice streetscape for the area. The building is located towards the front of the lot to create access in the rear for the parking and any necessary emergency vehicles. This creates the need for a front yard setback variance. The vans taking the residents in and out each day will do so from the rear with the extra space created by moving the building forward. Mr. Brown opined that having such activity to the rear of the building is a benefit to the neighborhood because the building will appear to be a single-family dwelling from the street and will fit into the character of the neighborhood. The materials being utilized on the building are materials used on residential dwellings. The porches, front door and dormers give the building a residential aesthetic.

27. Mr. Statile explained the bulk variances required for the application.

28. In response to questions from Mr. Statile, Mr. Brown testified that the proposed portico in the rear of the building was made smaller and a part of the building was reduced from the original plans submitted to decrease the impervious coverage requested. In addition, the concrete sidewalk was modified to meet State regulations.

29. In response to additional questions from Mr. Statile, the Applicant's property manager, Mr. Costantin testified that the garbage will be kept at the rear of the home, next to the air conditioner and generator. This information is noted on the engineering plans. Mr. Costantin further explained that the trash will be pulled to the front on garbage day.

30. In response to questions from the Board, Mr. Brown testified that the State requires a minimum hallway width of 6 feet for such a facility. Mr. Brown further testified that the mechanical room in the basement will include a boiler, hot water heater, janitorial supplies

and things of that nature. Mr. Brown explained that the Applicant's engineer would testify regarding fencing proposed around the site.

31. In response to questions from the Board, Mr. Setteducati testified that the application proposes 6 bedrooms to accommodate as many people as they can. The group home is very expensive to build and to staff and having 6 individuals as opposed to 4 or 5 makes the expense more reasonable.

32. In response to questions from the Board, Mr. Setteducati testified that residents would meet with visitors in the library or family room. There could be visitors for 2 residents at one time. The exercise room is for physical therapy for the residents.

33. The Board raised additional concerns about the proposed dwelling fitting in to the character of the neighborhood. In response to these concerns, Mr. Setteducati testified that the Applicant wants the home to fit in with the neighborhood and opined that the plans achieved that goal. Mr. Setteducati further testified that no signs would be located on the Property.

34. Mr. Statile opined that including a front porch and a faux chimney could give the building more of a residential feel. In response to Mr. Statile's suggestions, Mr. Brown testified that adding a front porch would be difficult because the State requires the front door be flush with the ground in order to wheel a bed out the front door, if necessary. The front door serves as an emergency exit and will not be used on a regular basis.

35. In response to questions from the Board regarding parking and impervious coverage, Mr. Brown testified that the question is better suited for the Applicant's engineer but the 8 parking spaces are required for staff and visitors. Mr. Setteducati also testified that there will be 3 employees with vehicles at any given time on the Property, plus the 2 vans for the home. The additional spaces are needed for visitors and shift changes. Mr. Setteducati

highlighted that there is no parking on Ruckman Avenue, so all the parking for the home must be accommodated on-site.

36. Mr. Setteducati stated that the Applicant is willing to make revisions to address and respond to concerns of the Board regarding the proposed home.

37. The meeting was opened to the public to ask questions of Mr. Brown and no one appeared.

38. The application was adjourned to the February 22, 2022 hearing of the Board, and the Applicant waived all timeframes for the Board to act until such date. No additional notice was required.

Public Hearing February 22, 2022

39. The Applicant's Attorney, Mr. Smith, addressed the Board, stating that this is a continuation of the testimony given at the January 25, 2022 hearing of the Board.

40. The Board heard testimony from the Applicant's engineer, Mr. Feury, a licensed professional engineer in the State of New Jersey.

41. Mr. Feury testified that he is familiar with the plans submitted to the Board with regard to the subject application.

42. Mr. Feury testified that the Applicant is requesting 3 variances: (1) 22.8% proposed building coverage where 20% is permitted; (2) 45.2% proposed impervious coverage where 30% is permitted; and (3) 43.2 feet proposed front yard setback where 50 feet is required. Mr. Feury further testified that the proposed building all services and rooms to be on 1 floor to accommodate the residents. Mr. Feury stated that as a result, the application requires additional building coverage that would not normally be a concern in a typical residence with 2 floors.

43. Mr. Feury testified that there are covered areas in the front and rear of the building to protect the residents in the event they need to leave the building, and these covered areas increase the building and impervious coverage. These covered areas are not part of the building but are included in the building coverage and impervious coverage totals.

44. Mr. Feury testified that in order to accommodate the parking area in the rear of the building and allow sufficient turning space for vehicles, the building was moved forward. That, along with the overhang in the front of the building, results in the front yard setback deficiency. This was done so that most activity entering and exiting the building would take place in the rear. Mr. Feury further testified that the driveway goes around to the back of the building. That, as well as the 8-space parking area in the rear, contribute to the impervious coverage.

45. Mr. Feury testified that he reviewed the report from the Board's Engineer, Mr. Statile. In response to Mr. Statile's report, Mr. Feury testified that the building would be shifted 3 feet to the south and raise the floor elevation approximately 3 inches so that the slope of the area on the north side of the building (the side yard) is in conformance with the Borough Code.

46. Mr. Feury testified that in order to keep runoff from adjacent properties, the Applicant proposes to install 3 seepage pits on the Property. All roof, parking area and the driveway runoff would be directed into the seepage pits. Only a small area of the site in the front and the northeast corner would drain out to Ruckman Avenue. Mr. Statile confirmed that an adequate number of seepage pits is being provided.

47. Mr. Feury opined that there is nothing created by the proposed use of the site that would be any different from any other typical single-family home.

48. In response to questions from Mr. Statile, Mr. Feury testified that the trash bins would be stored behind the building and would be taken out each garbage collection day. The Applicant understood the Board's concerns regarding trash storage and pest control and confirmed that trash receptacles would be secured and taken out on each garbage collection day.

49. In response to questions from Mr. Statile, Mr. Feury stated that handicapped drivers could use one of the parking spaces directly behind the building for parking but the Applicant does not anticipate many handicapped visitors to the Property. The Applicant agreed to install signage for the covered parking spaces to be permitted for handicapped vehicles.

50. In response to questions from Mr. Statile, Mr. Setteducati testified that the Applicant would be willing to provide an easement for the 8.5 feet of right-of-way along the front of the Property to be used for a future sidewalk.

51. In response to questions from Mr. Statile, Mr. Smith advised that the Applicant would comply with all lighting requirements of the Borough Code for a residential Zone. Mr. Costantin also testified that lighting would be installed along the walkways and in the parking area but it would not be intrusive to adjacent properties and would fit in with other residential lighting in the neighborhood. Mr. Setteducati confirmed that no pole lighting would be installed on the Property. The Applicant agreed to downlight and shield lighting on the Property and to submit a lighting plan to Mr. Statile for review.

52. In response to questions from Mr. Behrens, Mr. Setteducati testified that parking for 8 vehicles in the rear is required because the Applicant does not want the building to look like a group home with the van parked out in front. There will be up to 2 vans at any given time on the premises, as well as 2 to 4 employees. Visiting therapists visit occasionally and need to park, in addition to occasional visitors. The Applicant thought it would be nicer to place this in the

back away from the public view, and just have a driveway seen from the front. There is no on-street parking available. He feels that 6 or 7 of the parking spaces can be utilized at any given time and wanted to make sure there was sufficient parking available. There also needs to be sufficient parking available for the shift change when there could be 6 employee vehicles parked in the lot. Mr. Statile confirmed that the proposed parking meets the requirements for single family homes. No ADA parking spaces were required because the application is for a single-family residence.

53. In response to questions from Mr. Behrens, Mr. Feury testified that no fencing or vegetation is planned to provide screening at the rear, just the original plantings that exist. Mr. Statile testified that there is an existing chain link fence at the rear of the Property.

54. In response to questions and concerns from the Board regarding the size and location of the parking area, Mr. Feury testified that the amount of parking is necessary for the home's functionality. Mr. Feury confirmed that the parking area was designed in the best way to minimize the impervious coverage. Mr. Feury further testified that the impervious coverage could potentially be reduced if located in the front yard but opined that locating the parking in the front would create a less than desired aesthetic appearance.

55. In response to questions and concerns from the Board regarding the size of the driveway to accommodate two-way traffic and emergency vehicles, Mr. Setteducati testified that vehicles do not enter and exit the Property all day long but only a few times in the morning and evening during shift changes and when residents are taken to programs and appointments. Mr. Setteducati further testified that the only emergency vehicles that would possibly enter the driveway would be police and emergency medical vehicles and not fire trucks, which would be set up on the street. It was confirmed that the application did not require department reports to be

submitted. Mr. Costantin testified that the driveway is proposed to be paved asphalt and the walkway would be concrete. The Applicant agreed to review the Board's concerns and look into revising the driveway.

56. Mr. Setteducati testified that the home would be fully sprinklered.

57. In response to questions and concerns from the Board regarding landscaping, Mr. Feury testified that a landscaping plan was submitted with the application and any tree on the plan that did not have an "X" through it would remain on the site. The Applicant agreed to revise the landscaping and tree replacement to provide additional screening pursuant to review by the Environmental Commission and the Board Engineer.

58. In response to questions and concerns from the Board regarding the need for side yard setback variance(s), the Applicant agreed to review and revise the application to conform with the requirements of the Borough Code.

59. In response to questions from the Board, Mr. Setteducati testified that the home needs 6 bedrooms to make the home economically feasible and serve additional members of the community. Mr. Setteducati explained that eliminating 1 bedroom would not reduce the parking needs because the amount of staffing would be the same.

60. The meeting was opened to the public and 3 individuals appeared to be heard:

a. Nancy Thompson ("Ms. Thompson") of 40 Rawson Court stated that she lives directly behind the Property. Ms. Thompson asked questions and made comments regarding the fencing and landscaping to the rear of the Property. Ms. Thompson was concerned about vehicles coming up the driveway and into the rear parking area. The Applicant agreed to install fencing and landscaping along the rear property line. In response to a question from the Board,

Ms. Thompson advised that she receives runoff on her property but was not certain where same originated.

b. Noreen Gillen ("Mrs. Gillen") of 23 Ruckman Avenue stated that she and her husband live next door to the Property to the south. Mrs. Gillen was concerned with the proximity of the proposed driveway and the retaining wall to her property line and the location of any generators. Mr. Feury testified that the driveway would be located 10-12 feet away, the retaining wall would be approximately 2 feet away and the generator would be approximately 12 feet away from Mrs. Gillen's property line. Mrs. Gillen raised concerns regarding medical waste, the medical needs of the residents, the hours of care, the number of staff, the number of vehicles entering and exiting the driveway, traffic from the school across the street, lighting and landscaping. Mr. Setteducati testified that there would be no medical waste generated; some residents are ambulatory and others are wheelchair bound; care would be provided 24 hours per day, 7 days per week; there would be approximately 2 to 3 staff at the home at all times. Mr. Setteducati explained that the home's alarms would be hard-wired to the police and fire departments and the generator would be powered by natural gas and used for emergencies only. Mr. Setteducati testified that there would not be cars pulling in and out of the driveway at all hours but the Applicant would agree to install screening to mitigate any potential noise and light. Mr. Setteducati further testified that the school traffic would not be an issue as vehicles are not expected to be entering or exiting the Property during school drop-off and pick-up times. Mr. Setteducati further testified that the landscaping plan was provided and would be revised pursuant to the Board's professionals' review and lighting would match the Borough Code requirements and the Applicant agreed to address lighting changes if they become an issue.

c. Robert Gillen ("Mr. Gillen") of 23 Ruckman Avenue stated that he and his wife live next door to the Property to the south. Mr. Gillen commented that the proposed building is much too big for the lot size, especially when adding the parking area, driveway and walkway. Mr. Gillen stated that he did not think the proposed building was good for the Property.

61. Following the public comment portion of the meeting, the Board raised various concerns regarding the amount of impervious coverage proposed and possible discounts available in the Borough Code. The Applicant agreed to look into reducing the impervious coverage in the application.

62. The Board then heard testimony from the Applicant's Planner, Mr. Spatz, a licensed professional planner in the State of New Jersey.

63. Mr. Spatz testified that he examined the proposal, zoning requirements for the Borough, the neighborhood and the professionals' reports, prepared a planning report and was familiar with the application and the Property.

64. Mr. Spatz testified that group homes provide an inherently beneficial use and are permitted in all residential zones.

65. Mr. Spatz further testified that the front yard setback variance is required because the building must be one-story, the doorways and hallways are wider, and the parking is in the rear to improve aesthetics and fit in with the neighborhood and to permit residents to discreetly enter and exit the home.

66. Mr. Spatz testified that the building coverage variance is required because the building must be one-story and the doorways and hallways are wider than typical single-family homes.

67. Mr. Spatz testified that the impervious coverage variance is required may be reduced in some areas but is required due to the need for 8 parking spaces. Mr. Spatz opined that ample testimony was provided to support the need for 8 parking spaces.

68. Mr. Spatz opined that the proposed application would improve aesthetics and maintain the residential look of the neighborhood. Mr. Spatz further opined that any negative impacts would be mitigated by the drainage plan, which would improve drainage on the Property and increased landscaping, fencing and light shielding, which would screen light and sound from spilling over into neighboring properties. Mr. Spatz further opined that on balance, the positive impacts outweigh any negative impact.

69. In response to questions from Mr. Smith, Mr. Spatz opined that the excess building coverage would not impact neighbors because the setbacks would be conforming and can be adjusted. Mr. Spatz further opined that a reduction in the size of the building would not benefit the neighbors because the excess building coverage is minimal and is being mitigated by drainage and screening. Mr. Spatz further opined that if the building were moved back to eliminate the front yard setback variance and construct parking in the front of the building, then a negative aesthetic impact would be created for the Property and for the residential neighbors and the negative would outweigh any decrease in impervious coverage.

70. In response to questions from Mr. Behrens, Mr. Spatz testified that under the MLUL group homes are meant to be treated as single family residences and the aesthetics of a residence would apply to a group home. Mr. Spatz further testified that the variances are driven by the need for residents to be served as well as the need for a certain number of residents to be served to make such a home economically feasible. Mr. Spatz further explained that the Applicant's architect is better suited to testify to the residential style and architectural design of

the building as it relates to fitting into the residential neighborhood. Mr. Spatz opined that the proposed building is not commercial or institutional-looking, but is designed to blend in with the neighborhood.

71. In response to additional questions from Mr. Behrens, Mr. Spatz testified that the front yard encroachment matches similar projections in the neighborhood but he did not prepare a survey. Mr. Spatz further testified that the front yard encroachment is limited to the open porch and not building mass.

72. Mr. Behrens testified that the Board must decide if the rear parking is a better planning alternative. The Board should consider any revisions and mitigating features offered by the Applicant. The public benefits are clear but the application is not impact-free.

73. In response to questions from the Board, Mr. Spatz opined that when considering the number of parking spaces used for staff, visitors and vans, if the parking area were located in the front of the Property, then it would negatively impact aesthetic appearance. The proposed rear parking area will maintain the residential appearance of the Property because the Property is surrounded on 3 sides by residences. The possible reduction in impervious coverage by moving the parking area to the front yard would be negligible considering the drainage mitigation already proposed. Mr. Spatz further opined that the goal of the application is to blend in with the residences directly next door and not the school building across the street.

74. In response to questions from the Board, Mr. Behrens explained that the use is inherently beneficial but the remaining "c" variances must comply with the public benefits test. Mr. Smith further stated that it is up to the Board to impose reasonable conditions to mitigate any negative impacts and the Applicant will comply.

75. In response to additional questions from the Board, Mr. Setteducati confirmed that residents do not receive many visitors.

76. The meeting was opened up to the public to ask questions of Mr. Spatz and 1 individual appeared to be heard:

a. Robert Gillen ("Mr. Gillen") of 23 Ruckman Avenue stated that he and his wife live next door to the Property to the south. Mr. Gillen commented that the setback does not match other residential properties in the R-2 Zone and the Applicant should be required to comply with the Zoning Ordinance.

77. The Applicant requested that the public hearing be carried so the Board's concerns regarding setbacks, landscaping, lighting, driveway safety and impervious coverage could be addressed and revised plans could be submitted.

78. The application was adjourned to March 22, 2022. The Applicant waived all timeframes for the Board to act until March 22, 2022. No additional notice was required.

Public Hearing March 22, 2022

79. The Applicant's Attorney, Mr. Smith, addressed the Board, stating that this is a continuation of the testimony given at the January 25, 2022 and February 22, 2022 hearings of the Board.

80. Mr. Smith advised the Board that the Applicant had amended the application and revised the plans, which were submitted to the Board prior to the March 22, 2022 meeting for review. The revised application and plans eliminate the 2 variances for front yard setback and building coverage. It was confirmed that the amendments and revised plans obviated the need for any side yard setback variances. The only variance requested by the Applicant in the amended

application is for impervious coverage. The Applicant requests 32.65% impervious coverage where 30% is permitted, which is a significant reduction from the original request of 42.5%.

81. The Applicant agreed to comply with all Borough professional reports, including Mr. Statile's reports dated March 14, 2022 and March 18, 2022.

82. The Board heard testimony from the Applicant's Engineer, Mr. Feury, who explained the amended application and revised plans. Mr. Feury explained that the building was shifted and parking area were shifted back. Fencing to the west of the Property, along the rear property line, 6 feet high, will be installed to mitigate the shift of the building and the parking area. Mr. Feury explained that to the north-side of the building, a swale will be constructed to gather any runoff. Mr. Feury further explained that the amended application and revised plans eliminates the covered parking and only a small portion remains and the proposed roof in the front yard was moved back. In addition, the planting plan has been revised so that 8 replacement trees will be planted and 16 trees would be donated. Mr. Feury opined that the changes address the neighbors' concerns.

83. In response to questions and concerns from Mr. Statile and the Board, the Applicant agreed to landscape and install fencing along the southern property line. The Applicant further agreed to amend the landscaping plan to plant green giants instead of emerald green arborvitaes and to leave plantings along the rear property line and remove some trees that were in bad shape or in the way of the proposed fencing.

84. In response to questions from Mr. Statile, the Applicant agreed to install the sidewalk themselves and Mr. Statile advised that was acceptable.

85. In response to questions from the Board, the Applicant agreed to comply with the Borough Ordinance with respect to the installation of pervious surfaces to receive discounts in impervious coverage calculations.

86. In response to questions and concerns from the Board, Mr. Setteducati testified that motion sensor lighting would be installed on emergency doors in case of a fire and they would be shielded and pointed downward. Mr. Costantin confirmed that no spotlights are proposed.

87. The meeting was opened to the public and 3 individuals appeared to be heard:

a. Nancy Thompson ("Ms. Thompson") of 40 Rawson Court stated that she lives directly behind the Property to the rear. Ms. Thompson asked questions and made comments regarding the fencing and landscaping to the rear of the Property. Mr. Setteducati testified that the Applicant would take down some trees to install fencing along the rear property line but would coordinate with Ms. Thompson regarding the trees to remain and the fencing. Ms. Thompson asked questions regarding whether a garage was considered and what the process would be to resolve issues with lighting if they became a problem. Mr. Setteducati testified that there was not enough room for a garage because of the size of the home. Mr. Setteducati further stated that if lighting was an issue Ms. Thompson could speak to him directly or contact the Borough Engineer.

b. Noreen Gillen ("Mrs. Gillen") of 23 Ruckman Avenue stated that she and her husband live next door to the Property to the south. Mrs. Gillen asked questions about garbage and was concerned with the medical needs of the residents and the number of staff. Mr. Setteducati testified that the amount of trash produced would be the same as a typical residence. Mr. Setteducati further testified that staffing is provided 24 hours per day, 7 days per week with

approximately 2 to 3 staff at the home at all times and at least 1 LPN or RN. Mr. Setteducati explained that the home has a 3-minute rule to get residents out of the building in an emergency and the emergency doors in all bedrooms have monthly testing. Mr. Setteducati further explained that the beds, doors and hallways have been adjusted to easily maneuver the residents out of the building in case of an emergency. The building will also be fully sprinklered.

c. Robert Gillen ("Mr. Gillen") of 23 Ruckman Avenue stated that he and his wife live next door to the Property to the south. Mr. Gillen commented that the proposed building is a place of business that should not be permitted in a residential zone. The Board Attorney and Mr. Smith confirmed that the group home is a permitted use in the R-2 Zone.

88. The Board entertained a motion to approve the amended application with all discussed and agreed upon conditions. The motion was made by Mayor Ruocco and seconded by Mr. Raymond. The motion passed by a vote of 7 to 0.

Justification for Relief

89. The Board further finds the Applicant has met its burden of proof in support of their variance request.

90. The Board makes the following findings and conclusions with respect to this application:

A. The Board finds that the application as presented and revised will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the Borough's Zone Plan and Land Use Ordinance.

B. The proposed construction will go toward the positive criteria and the application provides an inherently beneficial use to the community. The Board further determined that the Property can accommodate the use and that any negative impacts of the

proposed variances have been mitigated by landscaping, drainage improvements and site design.

C. Further, the Board finds that using prudent zoning and planning principles, project will not negatively impact the existing neighborhood nor the community as a whole.

D. The Board hereby determines that the overall objectives of sound and prudent zoning and planning principles are advanced by the granting of the application.

E. The Board hereby determines that the Applicant has met the burden of proof to the satisfaction of the Planning Board for variance relief, as proposed by the Applicant.

F. The Board finds the use is permitted in the R-2 Residential Zone.

G. The Board also finds that the application as presented will not substantially impair the intent and purpose of the Borough's Zone Plan and Zoning Ordinance.

H. The Board finds that using prudent zoning and planning principles, the request for the variances will not affect the existing neighborhood, nor the community as a whole. The Planning Board hereby determines that the overall objectives of sound and prudent zoning and planning principles are advanced by the granting of the application.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Hillsdale as follows:

1. The Applicant's application has been approved, to wit:

(a) The Applicant is permitted to construct the proposed building and associated improvements on the Property such that the maximum impervious coverage shall not exceed 32.65%.

(b) The Applicant shall construct the proposed building and associated improvements on the

Property in accordance with the revised drawings submitted to and approved by the Board and the Board's professionals and in accordance with the testimony and requirements placed on the record.

(c) The Applicant shall install signage indicating which parking spaces are available for handicapped vehicles.

(d) The Applicant shall install all lighting in accordance with the Borough Ordinance and shall downlight and shield lighting on the Property. The Applicant shall submit a lighting plan to the Board Engineer. The Applicant agreed to address lighting changes if they become an issue.

(e) The Applicant shall install all landscaping and/or fencing along the southern, western and northern property lines in accordance with the plans submitted the recommendations of the Environmental Commission and the Board Engineer and the testimony and requirements placed on the record. The Applicant shall plant green giants instead of emerald green arborvitaes and to leave plantings along the rear property line and remove some trees that were in bad shape or in the way of the proposed fencing.

(f) The Applicant shall install a sidewalk along the front of the Property and shall coordinate with the Borough Engineer regarding design and construction of same.

(g) The Applicant shall comply with the Borough Ordinance with respect to the installation of pervious surfaces to receive discounts in impervious coverage calculations.

2. The application is specifically conditioned upon any and all other approvals required by any governmental entity having jurisdiction over the development, including, but not limited to Bergen County Planning Board approval or waiver, Bergen County Soil Conservation

District approval and the New Jersey Department of Environmental Protection approval, to the extent applicable.

3. The Applicant shall comply with the comments contained in the reports of the Board Engineer and the Board Planner and as stated on the record. All conditions imposed by the Board in this Resolution and on the record shall be complied with by the Applicant.

4. The Applicant shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. Notwithstanding the approval granted by the Board, the Applicant shall obtain all other applicable approvals and comply with all applicable laws, codes, ordinances, regulations and the like as to the Property.

5. Before any permits are applied for, it is the responsibility of the Applicant to see if there are any open permits or violations and address these before a new permit can be issued.

6. When applying for the permits, a copy of the signed Resolution and Board-approved plans must accompany the permit application.

7. No certificate of occupancy will be issued unless all inspections have been performed, passed, and all prior approvals have been satisfied.

8. The Applicant shall maintain sufficient escrow funds as requested by the Borough of Hillsdale.

9. The Applicant shall obtain all appropriate and applicable approvals and permits as required from all governmental agencies having jurisdiction over the project or the subject matter of this application, shall comply with each and every requirement of every issued permit, and shall be responsible for all costs and fees associated with these approvals. Before any permits are

applied for, the Applicant shall determine whether there are any open permits or violations for the Property and resolve any such issues to the satisfaction of the Construction Official. A signed Board resolution and Board-approved plans shall be submitted with all applications for permits.

10. If other agency approvals modify the plan, same will trigger a return to the Board.

11. The Applicant shall comply with all applicable laws and regulations, including the payment of the non-residential development fee, if applicable, pursuant to the Municipal Land Use Law.

BE IT FURTHER RESOLVED that the Chairman, Vice Chairman and Secretary of the Planning Board are hereby authorized to affix their signatures to this Resolution granting variances for impervious coverage and setback to property lines, as set forth herein and in the plans, and the Applicant is authorized to advertise the action taken by way of this Resolution in a local newspaper; and, further, the Secretary of the Board is authorized to send copies of this Resolution to the Construction Code Official and the Applicant.

VOTE ON APPLICATION:
MOVED BY: Mayor Ruocco
SECONDED BY: Scott Raymond

VOTE: FOR 7 AGAINST 0 ABSTAIN _____

MEMORIALIZATION VOTE:
MOVED BY:
SECONDED BY:

VOTE: FOR ____ AGAINST _____ ABSTAIN _____

APPROVED

Attest:

_____ _____
Meredith Kates, Secretary Dewey Burleson, Chair

New Concepts for Living
33 Ruckman Ave
Block 2004, Lot 3

CERTIFICATION

I certify that the foregoing is a true copy of the Resolution adopted on _____, 2022.

_____
Meredith Kates, Secretary

Dated: _____, 2022