



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT JANUARY 20, 2016

ORDER: The meeting was called to order at 7:45 p.m. by Graham Petto. Mr. Petto read the notice of compliance with the New Jersey Open Public Meetings Act and indicated that appropriate notice was forwarded to the officially designated newspaper of Montclair and posted in the Municipal Building. The schedule of meetings is also posted on the Township website.

ROLL CALL: Mr. Petto called the roll. Present were Mr. Harrison, Mr. Fleischer, Mr. Susswein, Ms. Baggs, Ms. Checca, Mr. Kenney, Mr. Moore, Mr. Jonathan Drill (serving in place of Mr. Sullivan), and Mr. Petto. Mr. Reynolds was excused.

ELECTION OF OFFICERS:

Mr. Petto stated that as this was the Board of Adjustment's annual re-organization meeting, the election of officers would be conducted.

Mr. Fleischer offered a motion to appoint Mr. Harrison as Chair of the Board of Adjustment. Mr. Fleischer's motion was seconded by Mr. Susswein. Mr. Harrison was appointed Chair unanimously.

Mr. Susswein offered a motion to appoint Mr. Fleischer as Vice Chair of the Board of Adjustment. Mr. Kenney seconded the motion. Mr. Fleischer was appointed Vice Chair unanimously.

Mr. Harrison suggested the appointment of Ms. Janice Talley as Secretary and Mr. Graham Petto as Assistant Secretary be conducted in one motion. Mr. Fleischer made a motion to appoint Ms. Talley as Secretary and Mr. Petto as Assistant Secretary. The motion was seconded by Mr. Susswein. The appointments were approved unanimously.

RESOLUTION OF BOARD PROFESSIONALS:

Mr. Harrison reviewed the resolution for the appointment of Mr. Tom Watkinson as Board Engineer. A motion to approve the resolution as introduced was offered by Mr. Fleischer, seconded by Mr. Susswein. The resolution was approved unanimously.

Mr. Harrison reviewed the resolution for the appointment of Mr. Michael Sullivan as Board Attorney. A motion to approve the resolution as introduced was offered by Mr. Fleischer, seconded by Mr. Susswein. The resolution was approved unanimously.

MINUTES: The minutes of the December 16, 2015 meeting were offered for any suggested changes. Ms. Baggs noted some edits. Mr. Fleischer made a motion to approve the minutes as amended, seconded by Mr. Kenney. The minutes were approved unanimously with Mr. Harrison abstaining.

OLD BUSINESS:

App 2429: Montclair Town Center, LLC. 319 & 323 Claremont Avenue. Use variance for event space in R-3 zone.

Chair Harrison recused himself from the application.

Vice Chair Fleischer introduced the application. Mr. Alan Trembulak represented the applicant.

Mr. Trembulak reviewed the testimony before the Board that had previously been presented. He noted that the applicant has worked to best address the concerns of the Board, which include the following:

1. An amended application to include subdivision of the property to connect the Georgian Inn, Carriage House and lawn area on a common lot.
2. Design revisions to the addition on the Carriage House to address concerns.
3. The applicant has retained an acoustics expert to testify before the Board.

Finally, Mr. Trembulak noted that Richard Keller, Professional Planner for the applicant, would testify in review of the proposed subdivision plan for the Board.

Mr. Trembulak then introduced Mr. Paul Sionas, architect for the applicant, to testify before the Board.

Mr. Sionas noted that the plans were revised based on previous comments by the Board, which include the following modifications:

1. The one-story addition to the Carriage House has been reduced in size slightly from 1,028 square feet to 951 square feet. Also, the addition will be constructed of brick instead of frame.
2. The proposed elevator shaft addition will be inset within the rest of the rear addition to increase the setback from the property line to 4.5 feet.
3. There are now 2 sets of swinging doors with a vestibule which form the entry/exit to the garden/lawn area behind the Carriage House.

Questions from members of the Board were then accepted.

Mr. Fleischer asked what the population count of the Carriage House would be under the revised plans presented by Mr. Sionas. Mr. Sionas replied that per building code, the capacity of the building with the proposed addition would be 174 people, seated at tables and chairs.

Ms. Baggs asked what the capacity of the building would be when used for standing room only. Mr. Sionas stated the capacity of the expanded Carriage House would be 326 people.

Mr. Kenney asked if there were any proposed modifications to the large swinging doors on the front of the Carriage House. Mr. Sionas noted that in previous plans, the doors were to be sliding doors. He noted that in this updated version of the plan, the doors will swing and there will be no vestibule over these doors.

Mr. Trembulak then introduced Mr. Richard Keller, Professional Planner for the project, to review the proposed subdivision plan.

Mr. Keller reviewed the proposed subdivision, noting the relocation of the property lines to ensure the Georgian Inn, Carriage House and lawn area were all on the same lot.

Mr. Keller noted that between the residential and hotel uses on the property, the property line would be relocated to ensure 10 parking spaces remain with the residential uses.

Mr. Keller noted that variances would be needed for reconfigured Lots 19 and 20. He also noted that the reconfigured Lot 18 would be conforming to the lot requirements.

Mr. Keller stated that the HVAC units would be relocated from the previous location in the rear corner behind the Carriage House to eliminate a variance.

Finally, Mr. Keller noted that a variance for the proposed subdivision would be needed from Montclair Code 347-106 for parking and driveway setbacks on the reconfigured lots.

Mr. Kenney asked about the parking needs for the uses on Lot 18 and 19, the residential properties. Mr. Keller stated that a total of 10 spots would be needed for the residential uses on these lots. Mr. Keller noted that in total, there are 69 parking spaces on the 3 lots.

Mr. Keller then reviewed a land use photo board exhibit. He noted the location of area land uses and the relative location to the subject property.

Mr. Trembulak asked Mr. Keller what the distance from the Carriage House to the single family dwelling on Valley Road was. Mr. Keller noted that it was about 150 feet.

Mr. Drill asked Mr. Keller to clarify the legend shown on the exhibit submitted by Mr. Keller. Mr. Keller reviewed the colors and the associated uses.

Mr. Trembulak asked Mr. Keller to review the purpose of the exhibit and how it supports the testimony.

Mr. Keller summarized and stated that the exhibit is supportive because it illustrates that there are few single family dwellings in the vicinity of the subject house. He noted that there are many multi-family dwellings in the area. He also stated that there is significant landscaping in the area. Mr. Keller stated that the negative impacts of the application are mitigated by the landscaping and distance.

Questions from the Board were then accepted.

Mr. Kenney asked about the building located at 30 North Mountain Avenue and how it is being used. Mr. Keller noted that the building is owned by the Montclair Historical Society and he stated that it appears as a one-family home. He noted that the property has generous setbacks and landscaping in addition to its distance from the subject property.

Mr. Kenney asked about 39 North Mountain Avenue, noting that it was the closest residential use to the Carriage House. Mr. Keller stated that while it is the closest residential use, he noted that there are fewer windows on the northern façade of the Carriage House. He also stated that efforts were made to modify the design of the building consistent with the recommendations of the acoustic engineer.

Mr. Kenney asked if there was anything added to the site plans to help mitigate the impacts to 39 North Mountain Avenue. Mr. Kenney asked what is currently in this area on the property now. Mr. Keller stated that there is currently a chain link fence between the properties.

Mr. Kenney asked if there was any proposed vegetation between the properties. Mr. Keller stated that there is existing vegetation on the neighboring property currently. He noted that there is a 10 foot area on the subject property of the applicant within which some improvements are currently planned. He noted that low shrubs are currently planned for the area. Mr. Keller noted that these could be taller and supplemented. He also noted that a 4.5 foot planting bed could be used to supplement sound mitigation in the area.

Mr. Kenney asked if the area could be supplemented with a fence. Mr. Keller stated that yes, a board-on-board fence could be added.

Mr. Kenney stated that while sound is one important issue, the other is the impacts of guests coming and going to the Carriage House and congregating in the parking area. Mr. Keller replied that the applicant is willing to have a supervisor on-site to manage events. He noted that the door on the northern façade facing 39 North Mountain Avenue is a secondary means of access for staff. He noted that this entry would be used only during the functions and that loading before and after events would be through the front doors of the Carriage House.

Ms. Baggs asked about traffic as a result of the number of cars in the parking area. She noted that with 174-300 people in the building, there could be a significant number of cars entering and exiting the property at night. She asked if there was a plan for traffic management. Mr. Keller stated that the applicant does not expect more than 69 cars in the parking lot as that is the number of spaces on-site.

Ms. Baggs asked if the parking lot was used in addition to on-street parking in the area for events how this would impact traffic. She asked if a traffic study had been conducted to determine the impact. Mr. Keller stated that there has been testimony previously on the proposed use and its potential parking requirement. He noted that while the Township code does not have a parking requirements for the proposed use, that similar uses such as a Club use would require 26 parking spaces on-site. He noted that with 69 on-site spaces, and 34 needed for the hotel, sufficient parking exists on-site.

Ms. Baggs asked how traffic enters and exits the property. Mr. Keller reviewed the circulation of the site.

Ms. Baggs noted that the plan could yield a large number of cars entering and exiting the property. She noted that the Van Vleck House has traffic management to manage ingress/egress during events. Mr. Keller stated that the parking lot here on the subject property is quite large and has good visibility.

Mr. Fleischer stated that he would be reluctant to consider the parking spaces for the residential uses in the total on-site 69 parking spaces.

Ms. Baggs clarified that her questions are related to the larger traffic impact to Claremont and North Mountain Avenues. She asked if there was a traffic light located at

the intersection and if there would be any police needed. Mr. Keller stated that there is a traffic light at this intersection. He noted that there would be no significant impact to the intersection as the proposed event uses of the property would be off-peak traffic hours. He noted that the lot can support the parking for the proposed use.

Mr. Susswein stated that the application comes down to the negative criteria. He stated that an alternate use could be considered, such as an office. In the case of an office, Mr. Susswein asked if the positive criteria, the re-use of the historic building, would remain and the negative criteria would be eliminated. Mr. Keller stated that Mr. Plofker has testified that the use of the building as an event space is best for the rehabilitation of the building. Mr. Keller noted that the proposed use of the Carriage House would re-link the building with the Georgian Inn which is historically significant as well. Mr. Keller stated that while another use of the space could be identified, he noted that there would be less restoration value.

Mr. Susswein noted that there have been prior approvals by the Board for office use in historic buildings. Mr. Keller stated that Mr. Plofker would have to address this question further.

Mr. Susswein stated that while the owner of 39 North Mountain Avenue did testify support for the restoration of the property, he noted that there was no comment on the proposed re-use of the Carriage House. Mr. Keller noted that the owner had an opportunity at that time to state opposition to the proposed use, if there was a sense of disapproval.

Mr. Moore noted that the applicant has done a considerable amount of work to address concerns raised by the Board. He noted that there are outstanding questions regarding the fence along the northern property line. He asked if the Board recommended additional sound barrier treatments in this area if that would be acceptable to the applicant. Mr. Keller stated that the applicant would be willing to do additional sound barrier treatments in this area. He noted that the acoustic engineer would testify on this. Mr. Keller noted that the lawn area can be gated to limit access after-hours to reduce noise impacts as well.

Mr. Moore asked if there would be a designated smoker area on-site. Mr. Trembulak stated that there would be no on-site smoking permitted.

Ms. Checca asked about the prep kitchen. Mr. Keller stated that it would be for final food preparation only and there would not be any stove nor cooking facility in the kitchen. Mr. Paul Sionas stated that food would be prepared off-site.

Ms. Checca asked about sound from the proposed HVAC units. Mr. Sionas stated that the acoustic engineer would address the sound from these units.

Mr. Fleischer asked if the applicant will be installing the HVAC units within the Carriage House building as discussed previously. Mr. Sionas replied yes.

Mr. Fleischer asked if it would be acceptable to the applicant to limit outdoor lighting in the lawn area to inhibit use of the area after dark. Mr. Keller replied yes.

Mr. Fleischer asked if the plans including bricking up windows on the Carriage House. Mr. Sionas replied yes and reviewed the proposed windows to be bricked.

Mr. Fleischer asked if the Historic Preservation Commission had reviewed these modified plans. Mr. Sionas replied no and stated that the applicant would have to return to the HPC for review of these modified plans.

Mr. Fleischer asked for clarification on the parking issue. He asked if the 2 residential properties of the application would require 10 parking spaces. Mr. Keller replied yes. Mr. Fleischer asked how many spaces were needed for the hotel use. Mr. Keller replied that the requirement is 1 space per room and that the hotel would have 34 rooms, therefore 34 spaces would be needed. Mr. Fleischer noted that would leave 25 remaining spaces.

Mr. Fleischer referred to the site plan and the proposed driveway between the residential properties. He asked if this driveway could be widened to accommodate two-way traffic. He then noted that, if so, the parking area could be separated to create a parking area exclusively for the residential properties with a separate entrance/exit from this exclusive lot.

Mr. Plofker stated that this would be a great idea to separate the residential uses from the hotel uses on the properties.

Mr. Fleischer noted that this would provide a clear distinction on the site between the hotel uses and the residential uses.

Mr. Susswein noted that this would change the subdivision line as proposed by the applicant. Mr. Keller stated that the applicant is open to modifying the subdivision line. He stated that this modification would allow the parking demand for the residential uses to be met on the residential properties.

Mr. Fleischer asked if the proposed event space use of the Carriage House, which can potentially accommodate more than 150 people, is oversized compared to the 34-room hotel on the property. Mr. Plofker noted that the proposed event space may in fact be undersized for the hotel. He discussed standard event space sizes in typical hotels.

Mr. Fleischer stated that overall the changes made by the applicant have been positive. He noted that the nearby Van Vleck House is similar to this property. He stated that parking demand may not always be met by the on-site parking and that traffic management during events may be needed.

Mr. Plofker stated that he does operate other event spaces in Montclair. He noted that valet parking can be provided to users of the event space upon request. He noted that operation of an event space on Label Street typically requires parking lot attendants. He stated that with this property, there is an opportunity to provide valet parking with cars held off-site at the Montclair Art Museum. He noted that typically not every guest will arrive and depart events at the same time. He also stated that in residential rentals, he typically has observed fewer than 2 cars per unit.

Mr. Fleischer asked about directing traffic when exiting the parking lot. He noted that the variety of uses in the area can present traffic issues. He asked if the applicant would consider right turn only when exiting from the lot. Mr. Keller reviewed circulation of the parking lot and stated that right turn only could be considered from the exit on Claremont Avenue.

Questions from members of the public were then accepted.

Brad Finkel, 9 Highmont Terrace asked for clarification on the parking spaces for each use on the property. Mr. Keller reviewed the parking requirements for the site. Mr. Finkel noted that if an event with 175 people occurred and there were about 3 people per car that could be 66 cars that need parking on site, when there is only 69 spaces.

Mr. Fleischer noted that the applicant has used a club use parking requirement in their calculation, but a restaurant parking requirement could be considered which requires 1 space for every 3 seats.

Mr. Keller reviewed the parking calculations based on the club parking requirement.

Mr. Drill reviewed the Township Code which does not contain a parking requirement for the applicant's proposed use. Mr. Drill noted that the Code does state that in the event a use is not listed, the parking requirement shall be according to that category which most nearly approximates that use.

Ms. Kathryn Chandler, 7 Highmont Terrace noted that 31 North Mountain Avenue and 44 North Mountain Avenue are residences and not medical uses as noted by Mr. Keller in his testimony. Mr. Keller clarified that 31 North Mountain Avenue is an in-patient medical facility and 44 North Mountain Avenue is a nursing home.

Ms. Chandler noted that a family resides in the Historical Society property at 30 North Mountain Avenue.

Ms. Chandler noted that distance from the subject property to the residential properties on Highmont Terrace and stated concerns about noise impacts.

Ms. Chandler asked why the Carriage House could not be redeveloped for residential use or as office space. Mr. Plofker replied that the intent of the application is to best preserve and renovate the Carriage House. He stated that the location of the building on the property is not best for use as an office or residence.

No further questions were offered from the public.

Mr. Trembulak then introduces John Michael Spencer, an acoustic engineer of JMS Acoustics.

Mr. Trembulak asked Mr. Spencer to review his work for the applicant. Mr. Spencer stated that he has reviewed the original plans and presented modifications which are reflected in the updated plans. He noted that the modifications present sufficient measures to meet the applicable noise regulations.

Mr. Trembulak asked Mr. Spencer to review the noise regulations of the State of New Jersey. Mr. Spencer stated that in a residential area, the maximum sound level at a property line is 65 dB between 7am and 10pm, and 50 dB between 10pm and 7am. Mr. Spencer also noted that the Township has a section of Code pertaining to Noise in Chapter 217.

Ms. Checca asked if the requirements and testing for the sound levels account for ambient noise such as leaves, wind, etc. Mr. Spencer stated that yes this would be accounted for as the property owner is only responsible for the emitted sound level from the property.

Mr. Trembulak asked Mr. Spencer to review the proposed recommendations provided to the applicant to address sound.

Mr. Spencer noted that the most significant change to the plans was the redesign of the addition to the carriage house to a masonry construction. He noted that the existing construction of the Carriage House is of 3 courses of brick. Mr. Spencer stated that the doors were the most significant source of sound emission and has recommended the vestibule doorway to mitigate. He also noted that the windows on the northern façade of the property, which is nearest to the residential use on 39 North Mountain Avenue, are to be infilled with brick.

Mr. Spencer noted that the 2nd floor of the Carriage House will help to mitigate sound emission from the roof of the building. He noted that the skylight proposed in the addition on the Carriage House may be removed in the event a greater sound reducing skylight proves to be cost prohibitive.

Mr. Spencer stated that it is best to control the sound within the building to mitigate exterior impacts. He stated that sound absorbing material would be used in the interior design. He also noted that the sound system to be installed inside the building would be specifically designed for the space, using smaller speakers targeted in specific areas. He also noted that such a system can be designed to have a limiter, preventing the volume from being raised too high.

Mr. Spencer discussed the northern façade of the building and noted that landscaping provides only minimal sound mitigation. He stated that based upon his review a 14 foot high barrier of a solid material would be needed to help mitigate sound as it will project upward from the building.

Ms. Checca asked if such a barrier would be needed given all of the measures that have been incorporated into the design of the building. Mr. Spencer replied that the sound emitted from the system may have to be limited below an acceptable level to ensure compliance but that testing would be required and that the applicant would have to comply with the State of New Jersey noise requirements.

Mr. Fleischer suggested the Board take a break at this time. The Board took a break from 10:10pm to 10:25pm.

The Board returned from the break.

Mr. Trembulak asked Mr. Spencer to clarify his statement on the barrier along the northern property line. Mr. Spencer stated that a seven foot wall could be constructed along the property line to mitigate noise impacts to 39 North Mountain Avenue. He also noted that this would provide visual screening as well.

Mr. Kenney asked how far along the property line the wall would extend. Mr. Spencer stated that it would extend to the proposed garbage enclosure location behind the Georgian Inn. He noted that this proposed wall would also shield sound from the parking lot.

Mr. Spencer noted that the previous enclosure for the HVAC system on the Georgian Inn property is sufficient to limit noise impacts.

Mr. Kenney asked about the maximum sound level inside the building during an event. Mr. Spencer stated that it would be between 80-90 dB for dancing music. Mr. Spencer reiterated that sound attenuation would occur through the second floor before exiting the roof. He also noted that there will be electronic controls on the limiter to govern the sound levels. Finally he noted that a report can be prepared to establish compliance with noise requirements as part of a larger Sound Mitigation Plan.

Questions from the Board were then accepted.

Ms. Checca noted that the property line between the subject property and 39 North Mountain Avenue is 9 feet from the north façade of the Carriage House. She asked if Mr. Spencer was confident in the design of the building and sound system to retain sound within the building. Mr. Spencer replied yes and noted that a distance of only 9 feet is very small. However, he stated that the masonry construction of the building was very helpful in attenuating the sound. Mr. Spencer also noted that smaller speakers positioned nearer to the guests is an effective strategy to manage sound. He noted that sound will be absorbed and controlled by the exterior construction of the building.

Ms. Checca asked if there would be any difference in sound level during the winter months when there is less vegetation. Mr. Spencer stated that vegetation for sound attenuation is not effective. He stated that sound is typically scattered by trees in many cases.

Ms. Checca asked if Mr. Spencer was confident that the system can be designed to be compliant with the State noise ordinance at 9 feet. Mr. Spencer replied yes and noted that the ordinance reduces in level at 10pm, at which point the system could be turned down as well.

Mr. Susswein noted that Mr. Spencer had mentioned that a 14 foot barrier would be needed to mitigate the sound previously. He stated that this would appear like a highway barrier in a residential neighborhood. MR. Spencer replied that 14 feet would be required to break the line of the sound. He noted that such a barrier would have been required if the glass windows on the northern façade were to remain.

Mr. Susswein stated that as presented, the plans appear to be a negotiation. He stated that the Board needed to be presented with final plans that illustrate the proposed construction. He asked exactly what the Board would be approving, noting it did not seem clear.

Mr. Plofker stated that the design is not final and will additionally be subject to review by the Historic Preservation Commission. He noted that the sound mitigation techniques will be incorporated into the final design. He stated that they are not proposing to construct a 14 foot wall.

Mr. Susswein stated that acoustics is both an art and a science. He noted that the conditions for this application could potentially be quite lengthy and would be burdensome to implement. Further he stated that they would be cumbersome to implement and difficult for the Township to monitor. Mr. Susswein asked if there are tests for the sound attenuation. Mr. Spencer replied yes and indicated that tests are done to establish the limits of the limiter system on the sound system. He noted that these tests are conducted post installation.

Ms. Checca asked how violations of the State noise ordinance are monitored and if they are complaint driven. Mr. Spencer replied yes and noted that typically the Township or County Health Officer imposes fines and penalties. He noted that either a local Township or County would have equipment to conduct the sound measurement.

Mr. Fleischer asked about the condensing units for the hotel. He asked if the capacity of these units would need to be increased to meet the needs of the Carriage House. Mr. Plofker explained that a conversion from a large chiller system to a condenser system would be used for the property. He noted that there is sufficient room for the additional unit and that the condensing unit would be less noisy than the chiller unit.

Mr. Fleischer asked about the 3 row brick construction of the building and what the Sound Transmission Class would be for the brick. Mr. Spencer replied that it would be 59.

Mr. Fleischer asked how a live band as opposed to a sound system would impact the sound emitted from the building. Mr. Spencer replied that it would be a complicated calculation.

Mr. Fleischer noted that there is a substantial amount of glass on the south side of the building. He noted that the residential uses are only 10 to 12 feet from the proposed property line in this area. He asked how this area would meet the requirements of the State noise ordinance. Mr. Spencer stated that a combination of the windows and limiting the sound system would ensure compliance.

Mr. Fleischer asked how the ordinance would be met if a band was used. Mr. Spencer stated that he has not provided any testimony on a band, only the installation of a specially designed house sound system for the building.

Mr. Fleischer asked if the applicant would permit a restriction that no live bands be permitted as a condition of approval. Mr. Plofker stated that with the advice of the acoustic engineer, they now understand how to meet the sound limits at the property line as required by the State noise ordinance. He stated that the project will be designed to meet this obligation.

Mr. Susswein asked when a sound test would be conducted. Mr. Plofker stated that the project would have to be designed and engineered before a test could be conducted.

Mr. Fleischer stated that a cap of 90 dB is acceptable, however a band could exceed this level. He asked if all of the sound attenuation measures are taken by the application, a louder band may not meet the State noise ordinance requirement. Mr. Plofker stated that the addition is relatively small and noted that there is great flexibility in designing the building to meet the noise requirements.

Mr. Fleischer clarified that the requirements of the State noise ordinance are maximum sound level at a property line is 65 dB between 7am and 10pm, and 50 dB between 10pm and 7am. Mr. Spencer replied yes.

Mr. Fleischer noted that the weakest points with respect to sound are the windows and doors. He asked if center posts would be needed for the doors to reduce sound transmission. Mr. Spencer stated that the proposed vestibules provide space and air

mass to help mitigate the sound. He noted that the double doors as proposed may require re-evaluation to ensure they will mitigate the sound.

Mr. Fleischer noted that the front vestibule is of a sufficient depth of 5 feet which would allow both the inner and outer doors to open at the same time. He noted that the rear vestibule that opens to the lawn area is only 2.5 feet deep.

Mr. Fleischer noted that the old carriage doors on the front of the building seem to be a weak point for sound. Mr. Spencer noted that the sound system would be tuned and directed to account for these doors.

Mr. Fleischer noted that this proposal was unique as it is a standalone entertainment use. He stated the typically event spaces are within a larger hotel structure.

Mr. Plofker noted that the application would return to the HPC for a final review of all materials to be used.

Mr. Susswein asked if over the course of 20 feet sound would be reduced by 6 dB. Mr. Spencer stated that the transmission of sound is logarithmic and the calculation is more complicated than that.

Ms. Baggs stated that based upon the new testimony on the potential cost of new measures to make the building useable as an event space, would the applicant agree to a condition that the building be preserved.

Mr. Fleischer clarified and stated that perhaps the condition should state that the use variance is granted for use in the Carriage House only and no other building.

Ms. Checca stated that the basis of the application is that it is an accessory to the Georgian Inn.

Mr. Fleischer summarized Ms. Baggs comments and stated that the condition would state the Carriage House is an accessory use of the hotel. He continued that if the Carriage House ceases to exist on the property or if the Carriage House is demolished the event space use can no longer continue on the property. Mr. Plofker indicated the condition would be acceptable.

Questions from the public were then accepted.

Mr. Brad Finkel, 9 Highmont Terrace, asked about the limiter system and what would be connected to this system. Mr. Spencer stated that all sound equipment would be required to go through the house installed system and no outside amplified music would be permitted.

Mr. Finkel noted that traditionally a band has their own sound equipment. Mr. Spencer stated yes that is true, however he noted that they would be required to connect to the house installed sound system.

Mr. Finkel asked if a new owner would be required to conform to that requirement as well. Mr. Spencer stated that the system is computer controlled and would be set-up separately. Mr. Finkel asked if the sound system could ever change. Mr. Spencer replied yes.

Mr. Finkel asked if the sound system would require reconfiguration after updates. Mr. Spencer replied yes.

Mr. Fleischer stated that a condition could be made that the applicant must maintain the sound level.

Mr. Finkel reiterated that a limiter will not work with a live band.

Mr. Drill asked for clarification as to whether live music would be permitted in the building. Mr. Plofker stated that the intent is to conform to the State noise ordinance requirements.

Mr. Fleischer stated that a condition should be added to permit maximum sound level at a property line is 65 dB between 7am and 10pm, and 50 dB between 10pm and 7am in compliance with the State noise ordinance.

Kathryn Chandler, 7 Highmont Terrace, asked about noise in the parking lot and if it would be subject to the same requirement. Mr. Spencer stated that the state regulation exempts noise from parking areas from the requirement.

Ms. Chandler asked if sound would bounce. Mr. Spencer stated that sound would bounce up the hill if there were many hard surfaces in the path, which would scatter the sound less.

Ms. Chandler noted that the parking lot is a hard asphalt surface. She asked if a less sound reflective surface could be used. Mr. Spencer stated that such a surface would not be substantially beneficial in reducing sound.

Comments from the public were then accepted.

Nancy Walther, 26 North Mountain Avenue, stated that she was worried about noise and traffic impacts from the proposed project. She noted that the Van Vleck House already hosts many events which causes traffic impacts. She also noted that there are tours and events at Evergreen (30 North Mountain Avenue) hosted by the Historical Society that cause traffic as well. She also noted traffic impacts from the Montclair Art Museum. Ms. Walther stated that Claremont Avenue is very busy and there are often ambulances using the road to reach Mountainside Hospital. She stated that it was difficult to make a left at the intersection.

Mr. Fleischer asked if evening traffic was different from the morning rush hour traffic. Ms. Walther replied yes.

Brad Finkel, 9 Highmont Terrace, stated that he believed the applicant is a good developer in Montclair. He noted that the site will be transitioning from a static development to an active development, which will cause additional cars on the street. He noted that due to the complaint driven enforcement of the State noise ordinance, the onus for enforcement will fall to the neighbors. He noted that the impact is on the residents in the area, who will have long lasting impacts and have to live with it.

Kathryn Chandler, 7 Highmont Terrace, stated that she agreed with Mr. Finkel's statements. She noted that Mr. Plofker's work is very tasteful and has high attention to detail. She stated that she is concerned about sound and the traffic impacts to the area. She noted that it will be difficult to predict the traffic impact and that a traffic study is

needed. She noted that the intersection of Claremont and North Mountain Avenue is problematic. Ms. Chandler stated that the use of the Carriage House as an event space is a concern as it will create more traffic. She stated that North Mountain Avenue is a nice running/biking road. She expressed disappointment that this project could make the area less accessible by walking/biking. She also noted that there are many potential conditions of approval discussed by the Board and that it will be difficult for the Township to maintain oversight.

Following public comments, Mr. Trembulak summarized the application and the requested variances. Mr. Trembulak referred to Exhibit A-8, which detailed the conditions the Board had discussed.

Mr. Fleischer stated that the use variance is the most critical to consider under the application. He recommended that the application be bifurcated with the first action by the Board on the variances and the subdivision. The second action would require the applicant to return to the Board for final site plan approval. Mr. Trembulak stated that the applicant would agree to this approach.

Final comments from the Board were then accepted.

Mr. Susswein stated that the Georgian Inn is an unusual property given its situation in a residential zone. He noted that it is surrounded by residential uses. He stated that commercial uses at the Georgian Inn have previously been approved by the Board. He pondered if this use was acceptable. He stated that the applicant has gone to extraordinary lengths to address concerns and generated a lot of goodwill. However, Mr. Susswein stated that at the end it comes down to a balancing of the positive and negative criteria. He stated that with respect to positive criteria, the preservation of the visual presence of the historic building, incorporation of additional green space were benefits. He noted that the restoration of the Georgian Inn building looks good, he stated that the Carriage House is in the rear and less visible. With respect to the negative criteria, Mr. Susswein stated that the potential disruption to the neighbors with traffic and noise was concerning. He noted that it is up to the Board to identify the weight of these disruptions. He stated that the applicant will meet the sound requirements and the traffic will come over time. Mr. Susswein stated that when weighing these impacts with the benefits to the neighborhood and the zone plan, it appears only beneficial to the developer. In balancing, he stated that he only sees a downside to the neighborhood. He stated that there is already a positive benefit of the hotel restoration and the link to the Carriage House appears weak and negative impacts may result.

Mr. Kenney stated that he would be in favor of the variance. He noted that the positive aspects are greater than the negative. He noted that the Carriage House is very visible from the road across the open parking lot. He stated that other positive is a restored Carriage House will provide an additional incentive for any future owner of the property to ensure it looks well-maintained due to its integration with the hotel. Mr. Kenney continued saying the renovation of the Carriage House is a strong positive benefit as well. With respect to negatives, Mr. Kenney stated that the majority of the discussion on sound and the changes as presented by the application show a willingness of the applicant to comply with the State noise regulation. He noted that traffic discussions

overall were relatively brief and it could be an issue. Mr. Kenney stated that the sound concerns previously held by the Board were effectively dealt with and that the impacts have been minimized. He stated that with respect to traffic, the applicant couldn't be held to account for all of those impacts. Mr. Kenney stated that he would be in favor of the application with a condition on the number of guests and that the second floor is used only for storage and mechanical space.

Ms. Checca stated that she was generally in favor of the variance. She noted that the applicant has gone above and beyond to meet the concerns raised by the Board. She noted that the event use is inherently beneficial to the hotel. She also stated that the application would restore the historic relationship of the Georgian Inn and the Carriage House. She noted that the testimony to meet the sound requirements does mitigate the negative criteria. She stated that the Township is in need of more places like this proposed by the application. She stated agreement with the conditions discussed previously.

Ms. Baggs stated that Mr. Susswein expressed many of her feelings about the application. She stated that she agreed that the applicant has gone to great lengths to make the plan or the Carriage House work. She noted that the Carriage House would work better in the current residential zone as a residence. She stated that residential zones contain primarily quiet uses and should be protected from noise impacts. She also noted that there are a significant number of conditions of approval that would require monitoring, and enforcement would be difficult.

Mr. Moore stated that the applicant has made lots of effort to make the property acoustically sound. He noted that the Georgian Inn and Carriage House have been sitting vacant and the rejuvenation of these buildings is good for the Township as a boutique hotel and event space. He noted that the applicant will comply with the sound requirement. Mr. Moore stated he would be in favor.

Mr. Fleischer stated that this was a difficult application. He noted that the hotel was already approved without the event space use. He noted that there are few event spaces deep within residential areas. He stated that there are adjacent commercial properties to the subject property. He noted that the applicant has gone as far as they possibly can to mitigate the noise impacts. He noted that weddings do typically have bands, which can be a concern. However, he stated that he had no concern about the space used for meetings, lectures, etc. Mr. Fleischer discussed the parking and stated that if the number of cars for an event is to exceed 59 (10 dedicated to the residential use), the applicant should provide valet parking. He noted that the installation of the sound limiter is helpful for the applicant. Mr. Fleischer stated that he does not have concerns about the traffic impacts due to the timing and frequency of events in the evening. He noted that parking/traffic impacts would be similar to other social clubs or church services, for example.

Ms. Baggs stated that with respect to the negative criteria it seems the traffic effects are substantial due to the number of conditions to mitigate traffic.

Mr. Fleischer stated that the Board does not have any benefit of traffic testimony and that Board members will have to draw their own conclusions. He stated that the proposed events will be at night and that the overlay with traffic on Claremont and North

Mountain Avenue will be minimal. He noted that the valet parking attendant could be on-site to support traffic/parking management.

Mr. Kenney stated that the traffic impacts of lectures, movies, concerts or plays would be more substantial as they typically have a common start and end time for all guests. He noted that the proposed use here for weddings would have a more staggered arrival/departure time of guests, which minimizes the impact.

Mr. Fleischer clarified that the applicant did not provide any testimony that the space would not be used for lectures, movies, concerts, etc.

Mr. Susswein stated that the imposition of valet parking does a disservice to potential guests. He noted that parking can be accommodated on-street at the discretion of the applicant. He noted that he was also concerned about the condition of a sound attenuation test and the issuance of a Certificate of Occupancy. He stated the conditions appeared onerous for the applicant and it appears there are more downsides than upsides to the use. He stated that other lower impact uses should be considered for the Carriage House.

A motion to approve the application with the conditions as noted was provided by Ms. Checca, seconded by Mr. Kenney. Mr. Fleischer, Mr. Kenney, Ms. Checca and Mr. Moore voted yes. Ms. Baggs and Mr. Susswein voted no. The application was not approved.

App 2432: Kent Home Associates, LLC. 65 N Fullerton Ave. Use variance for density exceedance

Mr. Fleischer asked the applicant during the 10:10pm-10:25pm recess if this application could be postponed to the February 17, 2016 meeting of the Board of Adjustment. The applicant agreed to the request.

App 2434: Jennifer Bakshi. 91 South Mountain Avenue. Bulk variance for a rear yard setback

Mr. Fleischer asked the applicant during the 10:10pm-10:25pm recess if this application could be postponed to the February 17, 2016 meeting of the Board of Adjustment. The applicant agreed to the request.

App 2436: Nicholas & Jessica Tamburri. 14 Elston Road. Bulk variance for a front yard setback

Mr. Fleischer asked the applicant during the 10:10pm-10:25pm recess if this application could be postponed to the February 17, 2016 meeting of the Board of Adjustment. The applicant agreed to the request.

ADJOURNMENT

Prior to adjournment Mr. Kenney announced that he would be relocating out of Montclair and thus would resign his position on the Board of Adjustment. The Board members thanked Mr. Kenney for his service.

A motion to adjourn the meeting was offered by Mr. Kenney, seconded by Mr. Fleischer. The meeting was adjourned at 1:15am, January 21, 2016.

Respectfully submitted,

A handwritten signature in cursive script that reads "Graham Petto". The signature is written in black ink and is positioned above the typed name and title.

Graham Petto, AICP
Zoning Board of Adjustment Assistant Secretary