



Janice E. Talley, PP/AICP
Director of Planning and Community Development
jtalley@montclairnjusa.org

MINUTES OF THE BOARD OF ADJUSTMENT MARCH 18, 2015

ORDER: The meeting was called to order at 7:38 p.m. by Janice Talley. Ms. Talley 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 Town website.

ROLL CALL: Ms. Talley called the roll. Present were Chair Harrison, Vice Chair Fleischer, Mr. Kenney, Ms. Baggs, Mr. Reynolds, Mr. Susswein, Mr. Moore, Mr. Sullivan, Mr. Petto and Ms. Talley. Ms. Brinkman arrived at 7:55 p.m.

Ms. Talley introduced Graham Petto, the new assistant planner with the Department of Planning & Community Development. Mr. Harrison asked if a vote should be held to appoint Mr. Petto as Assistant Secretary. A motion was made by Mr. Reynolds to appoint Mr. Petto, seconded by Mr. Fleischer. The motion passed unanimously.

MINUTES: The minutes of the February 18, 2015 were offered for any suggested changes. Mr. Harrison asked if there were any changes. None were offered. A motion to approve the minutes was offered by Mr. Susswein, seconded by Mr. Reynolds. The minutes were approved with Mr. Harrison and Mr. Fleischer abstaining.

OLD BUSINESS:

Resolution for App. 2393: New York SMSA Limited Partnership d/b/a Verizon Wireless, 208 South Mountain Avenue. *Installation of wireless telecommunications equipment on chimney and rooftop*

Mr. Harrison asked if there were any edits to the draft resolution. Ms. Baggs and Mr. Susswein offered minor edits. A motion was made by Mr. Fleischer to approve the resolution, seconded by Mr. Susswein. The resolution was approved unanimously.

RESOLUTION BOARD OF ADJUSTMENT TOWNSHIP OF MONTCLAIR

New York SMSA Limited Partnership (d/b/a Verizon Wireless)
208 South Mountain Avenue
Block 104, Lot 15
Application No. 2393

WHEREAS, New York SMSA Limited Partnership (d/b/a Verizon Wireless), did make application to the Board of Adjustment of the Township of Montclair (hereinafter "Board") to construct a small network node consisting of three panel antennas and a GPS antenna mounted onto a chimney on the roof of the building and two equipment cabinets on the roof of the building located at 208 South Mountain Avenue (hereinafter "the subject property") designated as Lot 15 in Block 104 on the Montclair Township Tax Map, and located in the R-0 Mountainside Zone; and

WHEREAS, the applicant requested variance pursuant to N.J.S.A. 40:55D-70d(3) to permit the wireless telecommunications antennas and equipment to be mounted on a building which measures 28 feet to the top of the existing parapet and 33.5 feet to the top of the existing chimney where a minimum of 60 feet is required pursuant to Montclair Code Section 347-17.1C(5)(a); and

WHEREAS, the applicant submitted a site plan and details prepared by NB + C Engineering Services, LLC, Sheets T-1, Z-1, Z-2, C-1, C-2 and C-3 dated November 7, 2014 revised through January 2, 2015, modified by a rooftop plan dated January 27, 2015 revised February 2, 2015 and plot plan prepared by VS Land Data dated September 17, 2014; and

WHEREAS, this matter came on to be heard at meetings of the Board of Adjustment held on November 19, 2014, January 21 and March 5, 2015 at which time it was established the notice was properly published and that property owners within 200 feet of the subject property had been properly served with notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings:

1. The subject property located on the westerly side of South Mountain Avenue consists of 4.8 acres and is owned and operated by the YCS-Sawtelle Learning Center, an institutional facility. The building measures 28 feet to the top of the existing parapet and 33.5 feet to the top of the existing chimney.
2. The applicant proposes to construct a small network node consisting of three one foot by two foot flush mounted panel antennas and a GPS antenna to be mounted to the existing chimney on the roof of the building, two equipment cabinets to be located on a three foot by six foot steel platform on the rear of the roof of the building and coaxial cable routed along the rooftop.
3. Subject to compliance with the conditions imposed herein, the application complies with all the conditional use standards contained in the Montclair Township Zoning Ordinance except that the building structure which the wireless telecommunications antennas and equipment is mounted is less than 60 feet contrary to Montclair Code Section 347-17.1C(5)(a).
4. The applicant's radio frequency expert testified that the purpose of the small network node installation is to address (a) providing stronger radiofrequency coverage in the area surrounding the proposed site, including but not limited to Clinton Avenue,

Llewellyn Road and Wayside Place; (b) providing capacity relief at adjacent sites, including the site identified by Verizon as Lower Montclair; (c) lessening interference issues at up to eight adjacent sites in the Verizon network including sites identified as East Orange 4, Belleville 2 and West Orange; (d) providing significant benefits to users nearby the proposed site, by establishing superior “throughput.”

5. The applicant presented the testimony of a radio frequency expert which included Exhibit A-15 which established that no other site could meet the applicant's needs and the proposed site was the most suitable.

6. The applicant presented the testimony of an electromagnetic compliance expert and submitted a report from Millennium Engineering, PC dated October 10, 2014 which established the proposed communications facility will comply with all applicable exposure limits and guidelines adopted by the FCC governing human exposure to radio frequency electromagnetic fields. The proposed facility will comply with electromagnetic field safety standards by a substantial margin in all publically accessible areas including the interior of the existing building, the base of the existing building and any areas in proximity to the existing building.

7. Based upon the applicant's planning witness, the Board determined approval of the requested variance advances the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et seq., the proposed location utilizes an existing structure which encourages appropriate use of land which promotes the general welfare (-2a); the location of the building on the lot contains substantial setbacks and provides adequate light, air and open space (-2c); provides sufficient space in an appropriate location for the proposed use (-2g) and the proposed installation promotes a desirable visual environment (-2i).

8. The application does not involve any noise, vibrations, smoke, dust, odors, heat or glare and the proposed installation will be barely visible and thus will not cause substantial detriment to the public good.

9. The proposed wireless telecommunications facility is a permitted conditional use in the R-0 Zone, however, there is no structure at the required height of 60 feet which could address the applicant's needs. The 2006 Master Plan Reexamination Report does not address wireless telecommunications facilities or the subject property. Based upon the foregoing and the limited scale of the proposed small network node, the Board determined approval of the application will not substantially impair the intent and purpose of the Master Plan and Zoning Ordinance.

10. The proposed wireless telecommunications facility will be barely visible and the subject property continues to be an appropriate site for the conditional use notwithstanding the building height deviation imposed by the Ordinance consistent with *Coventry Square. v. Westwood Zoning Bd. of Adjustment*, 138 N.J. 285 (1994).

11. Pursuant to the *Coventry Square* case cited above, the Board determined that the site remains an appropriate site for the proposed conditional use

notwithstanding the deviation from the conditional use standard, because the applicant is able to “flush mount” the antennas onto an existing chimney, as well as paint the proposed antennas to match the color of the existing chimney.

12. Further, also pursuant to the *Coventry Square* case, the Board found that the non-compliance with the one conditional use standard related to minimum building height does not affect the suitability of the site for the conditional use, because the applicant is able to satisfy all of the remaining conditional use standards, and because the painting of the antennas will reasonably camouflage the proposed use so that the aesthetic impact of the proposal on the community is minimal, if not non-existent.

13. The Board has evaluated the impact of the proposal on adjacent properties, and found that it will not cause such damage to the character of the neighborhood so as to cause a substantial detriment to the public good, because the applicant is able to meet all of the conditional use standards except one, and because the antennas will be flush mounted and the proposed equipment in the rear of the building will be screened from public view.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant proved the requisite special reasons for the granting of this application and proved by a preponderance of the evidence that the proposed relief could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair, that the within application of New York SMSA Limited Partnership (d/b/a Verizon Wireless) for variance relief pursuant to N.J.S.A. 40:55D-70d(3) to permit the proposed small network node as described herein is hereby approved subject to the following conditions:

1. The antennas shall be painted to match the chimney to which they are affixed and the color shall be preapproved by the Planning Department.

2. The equipment cabinets shall be screened in accordance with Section 347-17.1C(5)(h).

3. The coaxial cables shall match the color of the structure to which they are affixed and the color shall be preapproved by the Planning Department.

4. The antenna anchors shall be stainless steel and shall be anchored in the mortar joints.

5. The height of the GPS antenna shall not exceed the height of the chimney to which it is affixed.

6. The proposed safety railing around the lower roof at the rear of the building shall be substantially comparable in style, color and material to the railings adjacent to the rear entrance.

7. The applicant shall be responsible for all inspection fees required under Montclair Code Section 202-27 as well as escrow fees incurred in connection with review of this matter.

NOW, THEREFORE, BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the applicant, Township Manager, Township Council and Township Clerk.

NEW BUSINESS:

App. 2394: Davis Wellness Solutions, LLC. 314-316 Orange Road. Variance to permit a medical office use (wellness center) on the first floor in the NC zone.

Mr. Harrison recused himself from discussion of this application due to a conflict. The Board took a brief recess to await the arrival of Ms. Brinkman.

Mr. Fleischer introduced the application to the board and reviewed the requested variances of the applicant.

David Owen, representing the applicant, introduced himself and provided opening remarks. Mr. Owen indicated that Dr. Davis has been operating a chiropractic office in Montclair for a number of years and seeks to relocate an existing practice. Mr. Owen previewed the project proposal, requested variances and potential benefits of the project.

Mr. Owen called his first witness, Paul Sionas, an architect.

Mr. Owen offered Exhibit A-1, slides of the PowerPoint presentation to be given by Mr. Sionas.

Mr. Sionas presented his presentation, reviewing the property location and context, proposed plans for the site and all associated details.

At the conclusion of Mr. Sionas's presentation, Mr. Owen asked if there were any questions from the board.

Ms. Baggs asked about the lighting over the egress doors, specifically if the lighting would be sufficient, or if code requirements called for more lighting.

Mr. Sionas responded that the lighting currently under canopies is not sufficient to meet the standard. Additional lighting would be used.

Ms. Baggs wanted clarification about what the additional lighting would look like. Mr. Sionas responded that they would be hidden.

Mr. Kenney asked about the alleyway. He asked for clarification of ownership of the alleyway and the status of easements between the properties.

Mr. Owen stated that research was conducted to identify ownership of the alleyway by a property title company. He indicates that the properties were originally under common ownership and upon sale the easement was crafted to permit pedestrian and vehicular access. The right of way is retained in the plan and noted in the current deed.

Mr. Kenney asked Mr. Sionas if he was aware of current use of the alleyway. Mr. Sionas responded that presently the alleyway is used by vehicles of the current tenant,

Montclair Florist, for parking. Mr. Kenney asked if there were any current features to prevent driving in the alleyway. Mr. Sionas responded that there are no current impediments and that pedestrians use it presently as well.

Mr. Kenney noted that he is concerned that vehicles would drive through the alleyway under the proposed plan if there were no signs to indicate use of the alleyway. Further, he notes that it should be clarified the purpose of the alleyway and signage to indicate its use.

Mr. Fleischer wanted to know what the intent of the alleyway. He asked why a fence could not be installed. Mr. Kenney noted that removing the curb cut on Orange Road could be sufficient.

Mr. Owen responded that the easement is longstanding and efforts can be made to mitigate vehicular traffic.

Mr. Kenney noted that it should be a pedestrian walkway. Ms. Brinkman indicated that a bollard could be installed to prevent vehicular traffic.

Ms. Baggs asked if proposed change in use would affect the use of the alley. Mr. Sionas responded that the asphalt is in fine condition and that the exterior wall is in poor condition. Ms. Baggs asked if the proposed use of the building has an impact on vehicle access through the alley. Mr. Sionas indicated that there would not be any impact on vehicles, and that pedestrians would be using the alley.

Mr. Kenney clarified that presently the current tenant uses the alleyway for parking and that would not be the case under the proposed plan. Mr. Sionas agreed.

Mr. Reynolds asked if the asphalt could be replaced to make it more inviting to pedestrians.

Mr. Fleischer raised the point that control and ownership of the current alleyway is not clear. He suggested that the applicant and adjacent property owner enter into an agreement in writing that identifies how the alleyway would be used. He suggested that this could be a condition of approval.

Mr. Kenney noted that he was concerned that the vehicles in the alleyway in the photos presented were owned by the northern property. Mr. Sionas noted that the vehicles are owned by the current tenant of the subject property.

Mr. Sullivan noted that the scope of the existing agreement between property owners, obtained by the title search, permits vehicular traffic and pedestrian traffic; parking is not permitted and contrary to the scope of document.

Mr. Fleischer suggested that the discussion at hand is to end the use of the alleyway by vehicular traffic. He further proposed that an agreement between the property owners could rectify the situation.

Mr. Owen responded that all efforts would be made to address the alleyway.

Mr. Susswein noted that making the agreement a condition of approval gives the adjacent property owner veto control over the proposed application.

Mr. Owen responded that a good faith effort would be made to identify a solution, perhaps with signage.

Mr. Susswein asked about the location of the handicapped parking in the rear and the accessible entrance in the front, thus requiring the use of the alleyway.

Mr. Moore asked if there were security cameras visible on the property and if there would be. Mr. Sionas was not aware of any.

Mr. Fleischer clarified that he wanted to know if the rear entrance was considered for handicapped access. The current plan shows the rear entrance for staff and deliveries. Mr. Sionas noted that a thirty foot long ramp would be required to access the rear due to the grade. No ramp for the exterior was considered, only for the interior and it was determined that would not be feasible.

Mr. Kenney asked if there was any ADA requirement about handicapped parking space relative to the accessible entrance to the building. Mr. Sionas responded that the space must be the closest to the accessible entrance.

Mr. Fleischer noted that the entire path to the handicapped entrance from the handicapped parking must be entirely accessible, which is not the case here. There is vehicular traffic permitted within the handicapped path through the alleyway.

Mr. Kenney clarified his question, asking if the Board would be able to approve this plan if vehicular traffic was permitted in the alleyway. Mr. Sionas said he was not aware if they would be able to approve the plan based on those circumstances.

Mr. Kenney asked about the window displays. He asked if window displays would still be a component of this plan. Mr. Sionas noted that the newest plans have opened the central window area to show interior activity. Mr. Kenney said that he wanted to ensure that visible activity is an important component to approval as it is a key component of the zone.

Mr. Kenney asked about the stairwell and basement. Mr. Sionas answered that there is a basement and they are accessible from an interior hatch and exterior Bilco doors. Mr. Kenney asked about use of that space by anyone besides staff, and Mr. Sionas answered that it would not be used by customers and only would be used for storage. Mr. Kenney asked that a condition on this restriction be considered.

Ms. Brinkman asked about any remedial cleanup that may be required in the former dry cleaning tenant space. Mr. Sionas answered that the extent of remedial work is unknown at this time.

Ms. Brinkman asked about the slope of the roof and the placement of the HVAC equipment on the rooftop. She was curious if the equipment would be visible from Orange Road or Washington Street. Mr. Sionas responded that it would not be visible from the front due to the placement in relation to the center parapet; the proposed screening would be visible from the rear.

Ms. Brinkman asked about the brick infill along the rear of the property. Mr. Sionas responded that it would be cleaned and painted.

Ms. Baggs asked about the recent change of the display windows and how the cabinets would be accessed. Mr. Sionas noted that the plans will be revised to move things back twelve inches to allow for access to these display areas. Ms. Baggs asked about lighting in these spaces. Mr. Sionas responded that down lighting would be provided.

Mr. Reynolds asked about the visibility of the HVAC equipment on top of the building and if it could be moved westward or toward the rear of the property to ensure it is hidden from view at the front of the property. Mr. Sionas said that could certainly be done.

Mr. Moore asked about the size of the basement and if it was comparable in size to the first floor. Mr. Sionas indicated that it was the same footprint. Mr. Moore reiterated that there would be no plans to make that space accessible to customers. Mr. Sionas agreed that was the case.

Mr. Fleischer wanted to know the plans for the other tenant in the building the dry cleaner. Mr. Owen said the next witness could answer that.

Mr. Fleischer wanted to know what effort was made to market the space to fully compliant uses. Mr. Sionas could not answer the question.

Mr. Fleischer asked how noise would be mitigated from the HVAC unit. Mr. Sionas discussed the placement of the unit at the center of the building and the four foot high screening to shield noise from the unit. Mr. Fleischer asked about the location of the unit in proximity to windows of residential units in the adjacent property. Mr. Sionas noted that the viewing angle would make it difficult to see them from most, but some windows could have an angle to see the HVAC unit.

Mr. Fleischer asked about protection/screening of the x-ray equipment which is placed on an exterior wall. He asked if efforts would be made to prevent the impact of the x-ray equipment. Mr. Sionas said that efforts would be undertaken to do so.

Mr. Fleischer asked about the awnings on the front façade. He wanted clarification on the materials that comprise the sign. Mr. Sionas said they would be metal letters with lighting behind the letters for a halo effect.

Mr. Fleischer asked about the projecting blade signs and the need for two of them, which requires a variance. Mr. Sionas said that typically blade signs are placed at the end of the building. Mr. Fleischer noted that one per building is the requirement of the ordinance.

Mr. Fleischer asked about the rear entrance and whether it could be modified. He noted that the current layout has an office and a case manager room on the front façade and the reception in the center of the building. He suggested relocating the reception area to the front of the building to ensure a more active storefront. He also suggested a re-layout of the building to allow for a rear accessible entrance or relocating the x-ray room away from an outer wall.

Mr. Moore asked if the applicant intended to sell or lease the former space across Orange Road.

Mr. Owen said that the applicant does not own that building and is a tenant.

Mr. Fleischer then asked for questions from the public.

Dr. Renee Baskerville asked about the parking lot and its proximity to the Karate studio and nearby apartments. She asked if it would be possible to flip the parking lot access drive. Mr. Sionas said that was the first consideration, however, there were two considerations. First the configuration allows for more back up/turn around space and increased landscaping area. Second, it appears the township recently replaced the curb cut with granite block and the current curb cut, as such using the existing access area would be more economical.

Mr. Fleischer had a follow up question, asking if the applicant would be amenable to seek approval for only four parking spaces along the rear of the building. Mr. Sionas said that approach was reviewed, however backup space is still required to maneuver out of the parking spaces.

Dr. Baskerville asked what would be separating the parking area from the alleyway adjacent to the Karate studio. Mr. Sionas said there were no plans for a barrier between the proposed parking area and the alleyway.

Dr. Baskerville asked about the HVAC unit located on the roof of the property. She expressed concerns about camouflaging the HVAC unit. She asked what has been considered to camouflage the unit. Mr. Sionas said that the plans call for a four foot high aluminum screen with horizontal louvres. He said that three to four units would be placed on the rooftop.

Dr. Baskerville asked about the height of the sconces on the side of the building in the alleyway. Mr. Sionas said that the bottom of the fixtures were nine feet about the pavement.

William Scott, 23 Cedar Avenue, asked if the front curb cut could be eliminated to permit an additional parking space with reconfiguration of existing parking stalls on street. Mr. Sionas said it could be a possibility, but he did not have the exact dimensions. He said it appears that there could be another space.

Mr. Fleischer noted that removal of the curb cut would impact the alleyway and would require consultation with the adjacent property owner.

Mr. Scott asked if there was any historic requirements for the building. Mr. Sionas said to his knowledge there was no historic designation.

Mr. Susswein reiterated that the only free parking for the proposed application is in the rear of the building with the remainder available at metered spaces.

A break was taken at 9:30pm. The meeting resumed at 9:40pm.

Mr. Owen then called Dr. Davis to testify. Dr. Alfred Davis, Jr. is a licensed chiropractor who has practiced in the South End for more than thirty years. Dr. Davis shared some background information and history of his practice. He also discussed his history with the property and desire to keep his business in the South End.

Mr. Owen asked Dr. Davis if the proposed plans correctly illustrate the layout for his practice. Dr. Davis confirmed. Mr. Owen also asked if the plans showed all of the necessary spaces for his practice. Dr. Davis confirmed.

Mr. Owen asked how many employees Dr. Davis has on staff. Dr. Davis replied that he has ten employees and that they report to work at different times based on schedules. He indicated that at most six patients would be on site at one time.

Mr. Owen asked about the on-site parking and if it was adequate for Dr. Davis's needs. Dr. Davis said that the parking would be sufficient.

Mr. Owen asked Dr. Davis what his hours of operation were. Dr. Davis replied that his practice is open Monday from 7am to 7pm, Tuesday from 10am to 6pm, Wednesday from 7am to 5pm, Thursday from 10am to 7pm, and Friday from 7am to 12pm. Dr. Davis indicated that a half day schedule on Saturdays may be added in the future.

Mr. Owen asked about the generation of foot traffic by Dr. Davis's practice. Dr. Davis said that most patients at the wellness center are from Montclair and can bike or walk to the current facility. Many patients also frequent retail spaces in the South End business district.

Mr. Susswein asked about the availability of parking at the current facility for employees. Dr. Davis said that they currently park further down Orange Road in the residential area. Mr. Susswein asked where patients would park. Dr. Davis said they park on the street or in the metered lot.

Mr. Susswein asked if the parking area proposed behind the building is an added benefit, or Dr. Davis is indifferent to it. Dr. Davis said that the parking would allow for parking for employees in addition to making space available in the municipal lot.

Dr. Davis clarified that the karate studio often is open at different times than his practice. He stated that he wanted to include parking to attempt to conform but also to beautify the rear yard space.

Mr. Fleischer asked about the difference in space between Dr. Davis's current space and the proposed space. Dr. Davis said he presently has 1,700 square feet and the proposed space is 2,500 square feet. Mr. Fleischer asked if there would be an increase in staffing and patients due to the increase in space. Dr. Davis replied that there would not necessarily be an increase but rather a better flow of operations as the current configuration is cramped and limiting.

Mr. Fleischer stated that the lack of activity in the front of the building along the street is a concern. Dr. Davis stated that there will be a retail component of the facility and customers can purchase goods. He stated that the center portion of the front façade will be open and have a view of the reception area. The layout of the space was designed to maximize interior flow. Mr. Fleischer responded that the display windows were not consistent with the intent of the zone and asked if there could be a reconfiguration to allow for the reception area and retail operations to move to the front of the building and allow two-thirds of the front façade to be opened and more transparent. Dr. Davis stated that option was something that could be considered and he was open to modifications.

Ms. Baggs asked what activities would be happening in the waiting room area while patients are waiting for their treatments. Dr. Davis replied that patients are waiting to receive chiropractic adjustments and can use a variety of warm-up

machines/techniques prior to their treatment. Ms. Baggs clarified that she was trying to understand the sequence of how the space is used.

Questions from the public were then offered.

Dr. Renee Baskerville asked if the customers benefitted from hidden treatment areas to protect them. Dr. Davis responded yes.

William Scott asked if the garbage receptacle area would be maintained. Dr. Davis replied yes.

Jarvis Hawley, 17 Grenada Place, asked about the visibility from the street front into the facility. He asked if transparency into the building from the street could present any HIPAA Privacy Rule violations. Dr. Davis said that could be a concern. Mr. Fleischer stated that it would be at the discretion of Dr. Davis to determine what activity would be appropriate to display in the store fronts. Mr. Fleischer reiterated that it was the intent of the N-C zone to have active store fronts and that it was important for Dr. Davis to determine how activity will occupy the façade. Mr. Halley reiterated his concerns about patient privacy. Mr. Fleischer responded that the task to address the matter would be up to Dr. Davis and Mr. Sionas.

A five minute break was taken.

Mr. Owen then introduced Mr. Peter Steck, an expert Professional Planner to testify.

Mr. Steck distributed Exhibit A-3, a three-page document including a map illustrating the location and context of the property, a street view of the property and a set of photographs of the property, a tax map with zoning information and finally a marked site plan illustrating site improvement and variances that have been requested.

Mr. Steck presented the distributed exhibit for the Board. He stated that the applicant hopes to relocate an existing business with no on-site parking. He noted that the proposed medical office/wellness center would be permitted on the second floor, but it is not permitted on the first floor. He stated it can be difficult for medical office space to be located on the second floor per the ordinance, particularly due to the requirement for an elevator. He noted that the requested variance is a d(1) variance. The other variances are dimensional in nature.

Mr. Steck reviewed the principles that would be advanced under the Municipal Land Use Law by the proposed project. He noted that parking would be improved for the facility, which currently has no on-site parking and under the proposed plan will have five on-site parking spaces. He reviewed the hardships the proposed site presents. He stated that from a planning perspective, the use will generate pedestrian traffic which is beneficial to the business district.

Mr. Reynolds asked about Mr. Steck's interpretation of retail usage. Mr. Steck replied that the zone permits retail services and goods which include a variety of functions, with a varying degree of volume of operations. He said that this is a relocation of an existing use that is already in the area. He stated that the business operates like a personal service use.

Mr. Fleischer stated that the proposal is challenging the current rules as stated in the zoning district. The question here is not to change the regulations of the N-C zone.

Mr. Steck stated that the question at hand is whether this use is peculiarly suited for the nature of this business and if it will generate pedestrian traffic. Mr. Fleischer stated that just because pedestrian traffic is generated by the proposed use does not make it suitable for the N-C zone.

Mr. Fleischer noted the location of the sign in the rear of the building and whether the space should be considered a front yard. Mr. Steck stated that it is important because the public parking area functions like a street.

Mr. Fleischer asked about the need for two blade signs. He asked about the need of the signs in conjunction with the canopy signage. Ms. Talley stated that the signs on the canopies were not considered projecting signs and instead were considered awning signs during the review.

Mr., Kenney asked about the alleyway easement and the agreement dates associated with the right of way and if Mr. Steck was familiar with the terms of the easement. Mr. Steck stated that both parties have a right to the right of way and both owners have to agree to terms of the alleyway. Mr. Kenney asked if the final easement agreement erases the previous agreements. Mr. Owen stated that reference to all agreements would be necessary. Mr. Kenney stated that the northern property has no parking lot and that a change in the use of the alleyway could be detrimental to that property.

Mr. Kenney stated that the application would be difficult to support if the alleyway would be open to vehicular traffic.

Mr. Reynolds stated efforts to prevent parking in the alleyway would be beneficial.

Questions from the public were the taken.

Dr. Renee Baskerville asked if there was any public benefit if the Township were to acquire the alleyway. Mr. Steck stated that it would be a benefit, whatever means the Township took to acquire. He stated that it is important to access the second parking lot and has a functional role.

Dr. Baskerville asked if Mr. Steck was aware of efforts to place a kiosk in the area by the South End Business District where Dr. Davis could place signage to advertise business instead of the sign at the rear of the property. Mr. Steck was not aware of this effort.

Mr. Fleischer asked if Mr. Owen wanted to return. Mr. Owen stated that the application should be carried.

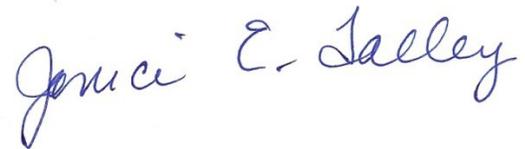
Mr. Sullivan stated the matter would be carried to April 15, 2015 at 7:30pm.

Mr. Kenney offered a motion to dismiss the meeting, Ms. Baggs seconded. The motion was unanimous.

ADJOURNMENT

The meeting was adjourned at 11:30 pm.

Respectfully submitted,

A handwritten signature in blue ink that reads "Janice E. Talley". The signature is written in a cursive style with a large, looped initial "J".

Janice Talley, P.P., AICP
Zoning Board of Adjustment Secretary