



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT MAY 20, 2015

ORDER: The meeting was called to order at 7:45 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: Mr. Petto called the roll. Present were Chair Harrison, Vice Chair Fleischer, Ms. Checca, Mr. Reynolds, Mr. Susswein, Mr. Kenney, Mr. Sullivan and Mr. Petto. Ms. Brinkman, Ms. Baggs, and Mr. Moore were absent.

MINUTES: The minutes of the April 15, 2015 meeting were offered for any suggested changes. Mr. Harrison provided edits. Mr. Fleischer also provided a minor edit. A motion to approve the minutes was offered by Mr. Susswein, seconded by Mr. Fleischer and approved unanimously.

The minutes of the Executive Session of the April 15, 2015 meeting were offered for any suggested changes. Mr. Harrison provided edits. Mr. Sullivan also provided an edit. A motion to approve the minutes was offered by Mr. Reynolds, seconded by Mr. Susswein. Mr. Harrison, Ms. Checca, Mr. Reynolds, Mr. Susswein and Mr. Kenney voted to approve the minutes. Mr. Fleischer abstained.

OLD BUSINESS:

Resolution for App. 2398: Zecchino/Nicolo's Bakery. 8 Baldwin Street. Use variance and site plan application for 995 square foot addition.

Mr. Sullivan provided a number of edits to the resolution. A motion to approve the resolution as amended was offered by Mr. Susswein, seconded by Mr. Fleischer. The resolution was approved unanimously.

App. 2367: 58 James Street – 58 James Street. Site plan application for four dwelling units.

Mr. Petto provided a letter submitted to the Board by Alan Trembulak representing the applicant requesting a postponement of the application to the June 17, 2015 meeting.

App. 2400: 84 Orange Road, LLC. 84 Orange Road. Use variance and site plan application to convert church to office.

Mr. Alan Trembulak representing the applicant requested that the application be postponed to the June 17, 2015 meeting.

Mr. Sullivan asked Chair Harrison for a motion to postpone these applications to the June 17, 2015 meeting. A motion to postpone the application was offered by Mr. Fleischer, seconded by Mr. Kenney and approved unanimously.

NEW BUSINESS:

App. 2402: Verizon Wireless. 52-54 Fairfield Street. *Variance for telecommunications facility.*

Chair Harrison recused himself from this application due to a conflict. Vice Chair Fleischer called the applicant.

Mr. Rick Schkolnick represented the applicant. Mr. Schkolnick introduced the application and summarized the requested variances. He noted that two alternative camouflage techniques have been developed.

Mr. Schkolnick then introduced Mr. Masters, engineer for the project. Mr. Masters reviewed the proposal. He noted that the antenna, as proposed, would be concealed in a vent pipe. Mr. Masters referred to Exhibit A-2, a photo simulation of the proposal.

Mr. Masters then introduced Exhibit A-3 which illustrated potential alternative solutions for the project. The Board asked Mr. Masters which alternative he preferred. He replied that he preferred the cupola alternative.

Questions from the Board were then accepted.

Mr. Fleischer asked if there were any plans that had been prepared that illustrate the façade from a distance. Mr. Masters noted they would be available.

Ms. Checca asked if one of the chimneys in the proposed double chimney alternative was merely a dummy chimney. Mr. Masters replied that both chimneys would include antennas, because the lower height would require two smaller antennas to meet coverage goals.

Mr. Susswein asked if the single chimney and the cupola alternatives both measured about four or four and a half feet above the ridgeline. Mr. Masters replied yes. Mr. Susswein asked if the double chimney alternative height was just below the ridgeline. Mr. Masters replied yes. Mr. Susswein asked if the original proposal was six feet tall. Mr. Masters replied yes.

Mr. Fleischer asked about the location of the GPS antenna. Mr. Masters stated that the GPS antenna would be within the faux chimney or cupola. He noted that the materials that would be used are radio-frequency friendly.

Ms. Checca asked if the double chimney elements were symmetrical on the building. Mr. Schkolnick noted that another witness would testify on that element.

Mr. Schkolnick then called Mr. Glen Pierson, radio frequency expert, to testify.

Mr. Schkolnick asked Mr. Pierson some clarifying questions during his testimony. Mr. Schkolnick asked about the location of the GPS antennas. Mr. Pierson noted that they would be located within the proposed alternatives, either chimney, stack or cupola. He noted that the dual chimneys would have a panel antenna, where the other options would have a cylindrical antenna. Mr. Schkolnick asked why the double chimneys were

necessary. Mr. Pierson replied that the north-south orientation of the ridgeline required two lower chimneys in order to meet the coverage objectives which are northeast and northwest of the subject property.

Mr. Fleischer asked about the dimensions, distance and placement of the elements on the roof. He stated that he needed more information on the exact location. Mr. Schkolnick stated that the project's civil engineer could address those items.

Mr. Schkolnick recommended that Mr. Pierson conclude his testimony before questions from the Board are accepted.

Mr. Pierson testified on the radio frequency needs and impacts of the proposal.

Mr. Fleischer noted that the height of the antenna in the cylinder is 6.5 feet above the ridge. He asked what the height of the GPS antenna would be above the ridge. Mr. Pierson noted that the proposed antenna is an integrated unit and that the GPS antenna would be no higher.

Mr. Pierson proceeded with the RF testimony. He introduced and reviewed the following exhibits:

- Exhibit A-4: RF Coverage Map
- Exhibit A-5: LTE Capacity Chart
- Exhibit A-6: Percentage of Use by Distance
- Exhibit A-7: Existing LTE Coverage
- Exhibit A-8: Existing & Proposed LTE Coverage

Questions from the Board were then accepted.

Mr. Susswein asked how the location of users was known for the analysis. He noted they could be driving by in cars or stationary. Mr. Pierson stated that the system can measure distance. He noted that there is a concentration of users at Watchung Plaza.

Mr. Fleischer noted that there are many users between 0.5 and 0.75 miles. He noted a rise in usage around 2.5 and 2.75 miles away and asked where that usage could be coming from. Mr. Pierson noted it could be from anywhere within that distance, perhaps Montclair State University.

Mr. Kenney asked if Mr. Pierson had reviewed coverage gaps in his testimony. Mr. Pierson replied that was not yet discussed. Mr. Pierson stated that there are two distinct types of gaps in service, capacity gaps and a gap in service.

Mr. Susswein asked about the time sequence of Exhibit A-6, specifically when the data was collected; a day, week, month. Mr. Pierson noted that the data was for a week.

Mr. Schkolnick noted that the case before the board is with respect to zoning and does not need to demonstrate a gap in coverage.

Mr. Pierson again reviewed Exhibit A-7 and A-8. He noted that the proposed antenna would result in 37% of the population receiving good service.

Mr. Susswein noted that Mr. Masters testified that dual chimneys would need to move towards the front of the building on Fairfield Street. Mr. Susswein noted that the propagation model used to forecast potential service seems useless because it is not informed of potential obstructions. Mr. Pierson noted that the model is statistical and

shows coverage to the rear of the antenna, but that may not be the case. Mr. Susswein stated that the antenna could be moved to the center of the building.

Mr. Fleischer noted the model was developed using a single antenna installation. He noted that there were more red dots (indicating poor coverage) to the north. Mr. Pierson stated that the model does not usually factor in obstructions.

Mr. Reynolds asked how much loss of service there would be under the two chimney option. Mr. Pierson stated that he could not specify exactly.

Mr. Schkolnick then called Mr. Pasney, civil engineer for the project.

Mr. Pasney reviewed Exhibit A-9 an elevation drawing showing the proposed alternatives. Mr. Schkolnick asked if these alternatives had been presented to the building owner. Mr. Pasney replied yes.

Questions from the Board then accepted.

Mr. Fleischer asked if the cupola were to be pushed back, would it have to increase in height. Mr. Pasney replied yes.

Ms. Checca asked if the dual chimneys would be placed symmetrically in the gabled area under that proposal. Mr. Pasney replied yes.

Mr. Susswein asked if the dual chimney option was selected, would it require a variance. Mr. Schkolnick replied that the height under that proposal could be compliant. Mr. Sullivan noted that the proposed chimneys exceed the roof line it would still require a d(3) variance.

Mr. Fleischer asked if the GPS antenna would be included within the enclosure. Mr. Pasney replied yes.

Mr. Schkolnick then recalled Mr. Masters, planner for the proposal. Mr. Masters reviewed the statutory criteria for the d(3) and d(6) variances.

Mr. Schkolnick asked Mr. Pasney if the existing dormer was evaluated to determine if there was space for the proposed antenna. Mr. Pasney replied that there was no space.

Discussion was then held by the Board.

Mr. Fleischer wanted clarification about the proposed alternatives. He asked Mr. Schkolnick if there was a preference for the Board to vote on one of them, or to propose an alternative as a condition of approval. Mr. Schkolnick replied that the original proposal was the most efficient solution, but that the applicant has made a good faith effort to introduce alternative solutions.

Mr. Fleischer then asked Board members for their concluding comments.

Mr. Susswein stated that he was struggling to distinguish this application from the Pine Street application heard previously by the Board. He noted that in this case there is not a compliant solution. He noted that this is one of the Township's business districts and that some relief is needed. He stated he would be in favor of the lowest height alternative solution. Mr. Susswein continued that he preferred to focus on height in this application and the dual chimney scenario presents the lowest height.

Mr. Kenney stated that the application had lots of positive elements. He noted that the application was not a d(1) variance and that there is a need for additional wireless coverage in this area. He noted that there are no residential impacts and that the applicant presented many mitigation options. He stated that he did not have many concerns about the application and preferred one of the alternatives presented this evening as opposed to the original proposal.

Ms. Checca stated that this is a prominent building in the Watchung Plaza area and noted her appreciation for the applicant's efforts in preparing alternatives. She stated that she favored the symmetrical alternative with the two chimneys. She noted this alternative would complement the Federal architectural style of the building and also would be lowest in height.

Mr. Reynolds stated that he agreed with Mr. Kenney's comments. He also believes that the presented alternatives were better than the original proposal.

Mr. Fleischer stated that he agreed that the two chimney solution would be best.

Ms. Checca made a motion to approve the application, seconded by Mr. Reynolds. The motion passed unanimously.

App. 2397: Mt. Hebron Cemetery. 851 Valley Road. Use variance and site plan application to build a mausoleum.

Chair Harrison introduced the application and called Mr. Alan Trembulak, attorney for the applicant.

Mr. Trembulak briefly reviewed the application to construct a new mausoleum and the requested d(2) variance for the expansion of a non-conforming use. Mr. Trembulak introduced Robert Cigol and Richard Keller to testify on the application.

Mr. Robert Cigol was called as the first witness by Mr. Trembulak. Mr. Cigol reviewed the existing conditions of the site. Mr. Cigol then introduced Exhibit A-1 and distributed it to the Board. The exhibit illustrates details of the proposed mausoleum building.

Questions from the Board were then accepted.

Ms. Checca asked for clarification of the dimensions. Mr. Cigol reviewed the dimensions.

Mr. Cigol reviewed the Planning Considerations presented in the Planning Memo. He noted that no landscaping nor lighting were proposed. He also noted that circulation to the site is only from the entrance on Valley Road. He also noted that there would be no signage nor parking proposed. He also stated that he will comply with the Zoning Board Engineer's comments.

Ms. Checca noted that there was no sense of relationship among the buildings on the lot. She asked for clarification on the location of trees at the proposed building site.

Mr. Susswein asked about the separation between the site and the adjacent cemetery. Mr. Cigol noted that there would be a partial fence and also a hedgerow separating the site. Mr. Susswein asked if there were any burial areas nearby. Mr. Cigol replied no.

Mr. Harrison stated that he was confused about the trees and asked if any were cut down. Mr. Cigol stated that trees were removed previously.

Mr. Trembulak then introduced Mr. Richard Keller, planner for the applicant.

Mr. Keller introduced Exhibit A-2 and reviewed the exhibit. He noted the area is generously landscaped and has minimal building coverage. He noted that 8 motion sensor lights will be installed on the corners of the building for winter hours and security. Mr. Keller reviewed previous cases with respect to cemeteries and reviewed the criteria for the application.

Ms. Pamela Bronander, Trustee for the Cemetery, was then sworn in to testify.

Mr. Kenney asked which mausoleum on the site is currently used. Ms. Bronander noted that the current mausoleum located across the driveway from the proposed location is used presently. Mr. Kenney asked when that building was constructed. Ms. Bronander replied that it was constructed in 1965.

Mr. Kenney asked what the capacity of the current mausoleum was. Ms. Bronander noted that the current mausoleum is at 85% capacity, but that many of the desirable plots have been sold.

Mr. Kenney asked what the capacity of the proposed mausoleum would be. Ms. Bronander replied that it would hold 684 caskets in 320 niches. Mr. Kenney reiterated that the last mausoleum to be constructed was fifty years ago in 1965. Ms. Bronander replied yes and that the trend in recent years has been towards mausoleums. Mr. Kenney asked if it would be another 50 years before the next mausoleum would be built. Ms. Bronander stated that was the planned timeline.

Mr. Harrison asked if Ms. Bronander had reviewed the trees at the site. She replied yes and showed the current condition of the site to the Board on her phone.

Ms. Checca noted that there were seven trees shown on the plans that would be in the way of the building. She stated that it would be good to know what happened to the trees that were previously there.

Mr. Harrison asked the Board to summarize their comments.

Mr. Kenney stated that his previous questions intended to identify how and when these projects would again be an issue in the cemetery. He noted that given the long time frame, the appropriate hidden location on the site, he would be in favor of the application.

Mr. Fleischer stated he would be in favor of the application.

Ms. Checca stated that she would be in favor of the application, however she had concerns about the previous tree removal and lack of a landscape plan. She added that trees could help the stormwater management on the site.

Mr. Reynolds stated that he would be in favor of the application.

Mr. Susswein stated that he would be in favor of the application.

Mr. Harrison stated that he was in favor of the application. However, he noted that he disagreed with the planner's testimony that the use was inherently beneficial. He noted

that there is no detriment from the application. He stated that the 3 conditions raised by the Zoning Board Engineer should be addressed. He also noted concerns about the loss of trees and how the site became so cleared. He stated that he could accept that they were not there if they were lawfully removed. However, he noted that the survey indicates large trees in the area of construction. Mr. Harrison proposed the following conditions:

1. The applicant shall comply with and satisfy paragraphs 1 through 3 contained in the report dated April 9, 2015 from W. Thomas Watkinson, P.E., P.P., Board Engineer.
2. Construction of the improvements shall be no closer than 12 feet from any tree with a diameter at breast height of 12 inches or greater.
3. Any tree removed as part of construction with a diameter at breast height of 6 inches or greater shall be replaced with a tree of like kind subject to review and approval by the Planning Department.
4. Any area disturbed by construction shall be reseeded.
5. The applicant shall be bound by all representations made on its behalf by its attorney and professionals during the course of the public hearing.
6. 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.

Mr. Fleischer made a motion to approve the application, seconded by Mr. Susswein. The application was approved unanimously.

ADJOURNMENT

The meeting was adjourned at 11:00 pm.

Respectfully submitted,



Graham Petto, AICP
Zoning Board of Adjustment Assistant Secretary