



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT OCTOBER 21, 2015

ORDER: The meeting was called to order at 7:35 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 Chair Harrison, Vice Chair Fleischer, Mr. Susswein, Mr. Reynolds, Ms. Brinkman, Ms. Checca (arrived at 7:37pm), Mr. Kenney, Mr. Drill, and Mr. Petto. Ms. Baggs and Mr. Moore were absent

MINUTES: The minutes of the August 19, 2015 meeting were offered for any suggested changes. Mr. Harrison reviewed a number of edits to the minutes. Mr. Fleischer made a motion to approve the minutes as amended, seconded by Mr. Susswein. The minutes were approved unanimously.

OLD BUSINESS:

Resolution for App 2416: Judith Sciarra. 165 Wildwood Avenue. Bulk variance for accessory structure height exceedance

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

Resolution for App 2417: Matthew & Laura Evans. 245 Grove Street. Bulk variance for addition to corner property, front yard setback

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

Resolution for App 2423: Sheila Boyd. 12 Orange Road. Bulk variance for off-street parking

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

App 2419: David & Helen Crossen. 64 Prospect Avenue. Bulk variance for garage addition

Mr. Harrison introduced the application. David Crossen, the applicant, testified before the board.

Mr. Crossen summarized the requested variance and reviewed the previous testimony.

Mr. Crossen then introduced Exhibit A-1, a three-dimensional video rendering of the proposed structure on the subject property. Mr. Crossen reviewed the video presentation for the Board.

Questions from members of the Board were then accepted.

Mr. Kenney asked to see the beginning of the video for a second time. Mr. Crossen replayed this portion of the video.

Mr. Harrison asked for clarification on how the plans were modified to reduce the height variance.

Mr. Crossen noted that the pitch of the roof had been reduced and the location of the garage was set back further into the hillside. He noted that both of these efforts were to reduce the height of the variance requested.

Jeff Egarian, engineer for the project also noted that the garage was pushed back 10 feet into the upward slope of the property which raised the mean grade around the proposed garage by 2.11 feet.

Jason Lembo, contractor for the project, noted that these modifications reduced the height of the proposed garage by 2 feet.

Mr. Harrison asked if the applicant would agree to the condition as recommended by the Historic Preservation Commission, which states that the materials used on the new garage are to match those of the existing house. Mr. Crossen stated yes.

Mr. Kenney asked about the side yard setback of the proposed garage. Mr. Crossen noted that the garage on the neighboring property is located just adjacent to the property line. He also noted that the intent of the proposed location to maintain space away from the house.

Mr. Lembo noted that there is a four foot soffit on the existing house which would cover a portion of the garage if the garage were to be moved closer to the house.

Mr. Fleischer asked how shifting the garage over to have a conforming side yard setback would be an issue. Mr. Lembo stated that this would make access to the garage more difficult as the current driveway is aligned with this proposed garage location.

Mr. Kenney asked if the applicant wanted to maintain the stairs to the right of the proposed garage location near the main house. Mr. Crossen stated yes, and he noted that the slope on the left side of the proposed garage was not useable due to the slope.

Mr. Fleischer noted that the applicant has clarified that the location of the garage is due to the alignment with the driveway.

Ms. Checca asked about the fence that is depicted on the plans but was not shown in the video. Mr. Crossen stated that a fence would be installed as shown on the plans.

Ms. Checca asked if there would be any heat in the proposed garage/cabana structure. Mr. Lembo stated that the use of the cabana level would be seasonal. He noted that this portion of the structure would be winterized. He also stated that the cabana would not have a stove nor would it be a livable space.

No questions were posed by members of the public.

Comments from the Board were then accepted.

Mr. Susswein stated that the Board appreciates the applicant's attempt to address the Board's comments. He noted that the new plan is an improvement from a zoning standpoint. He noted that steep slope could be considered a hardship in this case. However, he did note that in this case, the steep slope is an advantage to the applicant to create additional space. He stated that he would like to hear the opinion of other members of the Board.

Mr. Kenney agreed with Mr. Susswein's comments about the advantage provided by the slope to the applicant. He stated that he appreciated the applicant's effort to reduce the degree of the variance by reducing the height. However, he stated that his basic issue is to evaluate whether the proofs have been made by the applicant. Mr. Kenney stated that he was unsure as to why the garage couldn't be shifted to eliminate the side yard setback variance. He noted that the adjacent garage, which is existing, is too close, making this proposed garage worse. He stated he was conflicted on the application.

Mr. Fleischer stated that he was not conflicted and believed the application was reasonable. He noted that the applicant is taking advantage of the site conditions. He stated that the existing accessory structure side yard setback of the swimming pool is not a factor because it is not a structure above grade. Mr. Fleischer stated that the application does not negatively impact the zone plan nor the public. He stated his appreciation for the efforts by the applicant to reduce the height of the proposed garage structure. He stated that overall it is a good application with the modifications and that he would be in favor.

Ms. Checca stated that she agreed with the previous comments by other Board members. She stated she also felt conflicted given the benefits of the steep slope in this case. She noted that overall this is a good application that does not negatively impact the zone plan. She stated her appreciation for the modifications made by the applicant. She stated she would be in favor of the application with a condition that no heat be installed in the structure. She stated that she wanted to ensure the new space could not be a dwelling.

Mr. Reynolds stated that he appreciated the efforts by the applicant. He noted that the application is not detrimental to the zone plan nor the public. He noted the application was good and would be in favor with a condition that there be no gas line to the structure.

Mr. Harrison stated that he would be in favor of the application. He noted that while at first the application appears to be a carriage house, the applicant made a good faith effort to address all of the Board's comments. Mr. Harrison noted the topography of the site is an existing condition and that it would be different if the property was flat. He noted that as viewed from the street, the proposed structure would not be out of character with the existing house. Mr. Harrison noted that the side yard variance is more troublesome. He stated that while the driveway does in fact curve near the top, he believed that the structure could be moved a foot or two to reduce the impacts to the side yard. Mr. Harrison noted that the swimming pool is in fact a different form of an

accessory structure. He stated that the side yard setback request is justified given the location on the property.

Mr. Harrison summarized the conditions of approval as follows:

1. The accessory structure will not have a dwelling unit.
2. There is to be no heat, no cooking facility nor gas service provided within the accessory structure.
3. The applicant is to appear before the Historic Preservation Commission to present all proposed exterior materials including stone work to the Historic Preservation Commission. The purpose of the presentation is to ensure new materials will be in context and character with the existing dwelling on the property.
4. The applicant is to adhere to items 2 and 3 of the Board Engineer memo, dated October 13, 2015.

Mr. Fleischer made a motion to grant the variance with the conditions as noted by Mr. Harrison, seconded by Mr. Reynolds. The variance was granted unanimously with Ms. Brinkman abstaining.

NEW BUSINESS:

App 2425: Phil Leo & Amy Edelman. 70 Dryden Road. *Bulk variance for oil tank installation in side yard.*

Mr. Harrison introduced the application. Present were Mr. Phil Leo and Ms. Amy Edelman.

Mr. Leo summarized the application and reviewed the proposed location of the oil tank for the board.

Questions from members of the Board were then accepted.

Mr. Kenney asked if the applicant had considered locating the oil tank in the basement of the dwelling. Mr. Leo stated that there was insufficient space to locate the tank in the basement due to the location of windows and electrical outlets.

Mr. Susswein stated that the Board would need expert testimony as to why the oil tank could not be located safely within the basement.

Mr. Reynolds asked if the applicant had considered gas conversion. Mr. Leo stated that is something they have considered in the future, but the cost is quite high.

Mr. Harrison stated that the Board needs additional information before proceeding. He noted that testimony by a licensed official should be given and a graphic illustrating the basement should be provided to help clarify the applicant's testimony.

Mr. Harrison asked the applicant if they would consider carrying their application to the November 18, 2015 meeting to obtain the additional information. Mr. Leo agreed.

Mr. Harrison announced that the application would be carried to the November 18, 2015 meeting and that no further notice would be given.

App 2380: NY SMSA / Verizon Wireless. 10 Pine Street. Use variance for telecommunications facility

Mr. Fleischer recused himself from the application. Mr. Harrison introduced the application. Mr. Richard Stanzione represented the applicant.

Mr. Stanzione reviewed the application which has returned to the Board on remand. He noted that the applicant met with the property owner. He also stated that the applicant has worked to address concerns previously raised by the Board. He noted that previously the application did not flush mount the antennas, as proposed currently.

Mr. Stanzione called Mr. Murawski of E2 Project Management to testify.

Mr. Murawski reviewed the differences between the previous plans filed as part of the application and those under review by the Board at this time. He noted modifications to the antennas.

Questions from members of the Board were then accepted.

Ms. Brinkman asked how the antennas would be mounted to the parapet. Mr. Murawski stated they would be mounted using timber framing.

Mr. Stanzione then called Mr. Glenn Pierson of Pierson RF Consultants to testify.

Mr. Pierson reviewed the site and its role to meet capacity needs of the wireless network. He noted that sectors at Mountainside Hospital are at capacity and that there is significant residential demand for additional capacity in the area. Mr. Pierson reviewed the alternative site analysis that was conducted by the applicant. He noted that other zone districts were evaluated, however most buildings in those zones were only 3 stories. He stated that any signal from a location on these 3-story buildings would be obstructed by nearby 4-5 story buildings in the redevelopment area.

Mr. Stanzione asked Mr. Pierson if the firehouse and parking garage near Bay Street Station were evaluated. Mr. Pierson replied yes and noted that these areas would not be suitable. This he stated was due to the fact that the garage is only 3 stories in height and the roof of the firehouse is peaked which provides limited placement options.

Mr. Stanzione asked if a flush mounted antenna would work on either of these buildings. Mr. Pierson replied no and stated that if installed on these buildings, the antennas would need to be taller.

Mr. Stanzione asked if the new building located at 10 Pine Street, known as Montclairion, would impact service. Mr. Pierson stated there would not be a significant impact.

Mr. Stanzione asked if the proposed site complied with FCC standards for radio frequency. Mr. Pierson replied yes and noted that the FCC is promoting a proliferation of small cell sites.

Questions from the Board were then accepted.

Mr. Harrison asked if the applicant knew if there would be any additional applications forthcoming. Mr. Stanzione replied no.

Mr. Stanzione then called Mr. William Masters, Professional Planner for the applicant.

Mr. Masters submitted Exhibit A-6, a photo montage of the site as it currently exists and with the proposed antenna installations.

Mr. Masters reviewed the submitted exhibit. Mr. Stanzione questioned Mr. Masters with respect to the relationship to the plans and ordinance, negative impact and the balancing test. Mr. Masters summarized that the application would be beneficial to the public good and would have a negligible adverse impact on the public. He also noted that the site was particularly suited for the use.

Questions from the Board were then accepted.

Ms. Checca asked about the equipment cabinet. She noted that while the antennas have a limited visual impact under this proposal, the cabinet appeared to rise above the roofline. Mr. Masters noted that this element could be screened to limit visual impact. Mr. Stanzione stated the screening could be colored to match existing roof elements as a condition of approval. Mr. Masters stated that proposed screening that matched the texture and color of the parapet would limit visibility of the equipment cabinet.

Mr. Harrison asked if the screening of the equipment cabinet would be better if the element were shielded as a chimney rather than matching the parapet. Mr. Masters noted that from ground level, the front façade will mask the equipment cabinet if colored to match.

Ms. Checca asked about the triangular roof element on the plans. Mr. Masters noted that is an existing wall on the roof of the building. Mr. Stanzione noted that the previous application included equipment that would exceed the height of that roof element, however he stated this application no longer exceeds that height.

Mr. Stanzione requested that the Board proceed to a vote, despite having less than seven members present. Mr. Stanzione stated that the applicant welcomed the opportunity to re-present the application. He noted that the applicant has worked with the property owner and that working to screen the equipment cabinet would not be a problem.

Comments from the Board were the discussed.

Mr. Kenney noted that the applicant did a good job to address the burden of proofs. He stated that the flush mounted antennas have a de minimus impact. He also noted that while the change in heights along the roof line of the equipment cabinet will be noticeable to the eye, he believe that the screening would be helpful to minimize visual impact. He stated that overall he was in favor of the application.

Ms. Checca stated that she would also be in favor of the application with a condition for the screening of the equipment to mitigate any visual impact.

Mr. Reynolds stated that he would be in favor of the application. He noted that there is less visual impact as presented in this new application in comparison to the previous submission by the applicant.

Ms. Brinkman stated that she would be in favor of the application as well. She noted that the modifications are a great improvement and blend well with the existing building.

Mr. Susswein stated that he would be in favor as well.

Mr. Harrison noted that previously, the application presented two issues of concern. The first was that alternative sites were not well explored, which the current submission better demonstrated that the site is best suited to meet the applicant's needs. Second, he noted that the antennas under the revised plans are at or below the height of the parapet which is an improvement as well. He noted that there will be limited visual impact and that the proposal is not detrimental to the public good. He also stated that there is no impairment to the zone plan.

Mr. Harrison reviewed the conditions as discussed by the Board.

1. The flush mounted antenna shall be painted to match the color of the parapets to which they are affixed.
2. The top of the flush mounted antennas shall not exceed the height of the top of the parapets to which they are affixed.
3. The equipment cabinet shall be screened to match the color and texture of the parapets.
4. The applicant shall be bound by all representations made on its behalf by its attorney and professionals during the course of the public hearings.
5. 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 the review of this matter.

A motion was made by Mr. Susswein to grant the variance with conditions, seconded by Mr. Reynolds. The variance passed unanimously.

App 2426: Daniel Groisser. 30 Club Road. *Bulk variance for minimum lot width*

Mr. Harrison recused himself from the application. Mr. Fleischer introduced the application.

Mr. Calvin Trevenen represented the applicant. Mr. Paul Sionas was also present as the applicant's architect.

Mr. Trevenen reviewed the application. He noted that the width of the lot is minimally undersized. He stated that the applicant proposes to construct a new dwelling on the property which will serve as a primary residence.

Mr. Sionas reviewed the plans for the new residence. Mr. Sionas submitted Exhibit A-1: a color rendered site plan, to support his testimony about the proposed site improvements under the application. Mr. Sionas noted that the proposed dwelling will comply with all requirements of the zone, with the exception of the minimum lot width requirement, which is the requested variance by the applicant.

Mr. Trevenen reviewed requests by the applicant to purchase property from adjacent property owners. He submitted Exhibit A-2, a letter to the owner of 26 Club Road (Block 4702, Lot 91) and Exhibit A-3, a letter to the owner of 34 Club Road (Block 4702, Lot 93), as evidence of these offers by the applicant. Mr. Trevenen stated that neither replied in writing, but he noted that the owner of 34 Club Road did respond by phone and stated no interest in selling a portion of the property.

Mr. Trevenen then summarized the application and the hardships presented to the applicant by the lot. He noted that the hardship is not self-created by the applicant.

Questions from the Board were then accepted.

Mr. Drill asked what the square footage of the existing house on the property was. Mr. Sionas stated that he was not sure, but noted that the footprint of the existing house was about 2,251 square feet and the proposed house footprint was approximately 2,688 square feet.

Mr. Fleischer asked if this property was located in a previously approved subdivision. Mr. Trevenen stated that the street was created presumably at the time the area was subdivided.

Mr. Fleischer asked if Mr. Trevenen knew when the 100 foot minimum lot width was established for this area. Mr. Trevenen stated that was not known.

Questions from members of the public were then accepted.

Ms. Diane Gorman, 34 Club Road, questioned the applicant.

Ms. Gorman asked if there was any planned landscaping or trees along the property line. She noted that currently her property has a view of Yantacaw Brook Park to the rear of her property and the subject property.

Mr. Sionas stated that there were no plans for tall dense trees along the rear property line as the applicant would like to preserve a view of the park as well. He stated that he was unsure of the intention for the side property line. Mr. Trevenen stated that the applicant would be agreeable to not planting tall trees along the side property line.

Mr. Fleischer clarified that a condition cannot be imposed on the applicant for planting along the side property line and that this should be discussed between Ms. Gorman and the applicant.

Ms. Gorman asked about drainage from the property and if there would be any impacts. Mr. Sionas noted that the plan would comply with all Township engineering requirements.

Comments from the Board were then discussed.

Ms. Checca stated that she would be in favor of the application in meeting the c(1) variance. She noted that the amount of the variance is minimal and that other existing lots in the area are further from meeting the required minimum lot width.

Mr. Reynolds stated that he was also in favor of the application.

Ms. Brinkman stated that she would be in favor.

Mr. Susswein stated that he would be in favor.

Mr. Kenney noted that if the applicant requested additional variances for the proposed dwelling it would be more concerning. However, he noted that the compliance with the 65% maximum building width on the property effectively manages the width under the code. He stated he would be in favor of the application.

Mr. Fleischer stated that he would be in favor of the application. He noted that the application is not detrimental to the zone plan and the impact to the public would be de minimus.

Mr. Kenney made a motion to grant the variance as submitted, seconded by Mr. Susswein. The variance was granted unanimously.

App 2427: Joseph & Yolanda Gawler. 491 Park Street. Bulk variance for front porch, front yard setback.

Mr. Harrison introduced the application.

Mr. Joseph Gawler was present along with Mr. Bailey Heck, architect for the project.

Mr. Heck reviewed the application and submitted Exhibits A-1 and A-2, renderings of the proposed front addition.

Questions from the Board were then accepted.

Ms. Brinkman asked if the proposed porch would be enclosed and heated. Mr. Heck stated that the porch would be enclosed and heated, serving as a vestibule into the house. He noted that presently there is no entry area to store coats and shoes at the dwelling.

Mr. Fleischer asked if the vestibule would be habitable in any other way than as described. Mr. Heck replied no.

Comments from the Board were then accepted.

Mr. Fleischer stated that he would be in favor of the application. He noted that the existing setbacks of the adjacent properties are greater than the required 25 foot minimum. He noted that historically vestibules have been added to the front of homes in the Township. He noted that there would be no impact to the setback and noted that no neighbors were present to object. He stated that the application represented a small variance and was not detrimental to the zone plan.

Ms. Checca agreed with Mr. Fleischer's comments and noted the application represented an improvement to the property.

Mr. Reynolds stated he was in favor.

Ms. Brinkman stated that she was generally in favor of the application.

Mr. Susswein stated he was in favor.

Mr. Kenney stated he was in favor. He noted that the house is situated with the southwest corner of the dwelling closer to the street than the proposed vestibule addition.

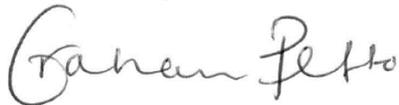
Mr. Harrison stated he was in favor. He noted that the proposed addition was no closer to the front property line than the existing house. He noted that the application was not detrimental to the zone plan.

Mr. Susswein made a motion to grant the variance as submitted, seconded by Mr. Kenney. The variance was granted unanimously.

ADJOURNMENT

A motion to adjourn the meeting was offered by Mr. Fleischer, seconded by Mr. Kenney. The meeting was adjourned at pm, October 21, 2015.

Respectfully submitted,

A handwritten signature in cursive script that reads "Graham Petto".

Graham Petto, AICP
Zoning Board of Adjustment Assistant Secretary