



Township of Montclair

205 Claremont Avenue

Montclair, NJ 07042

tel: 973-509-4954

fax: 973-509-4943

MONTCLAIR ZONING BOARD OF ADJUSTMENT



Graham Petto, AICP
Assistant Planner

Department of Planning and Community Development
gpetto@montclairnjusa.org

MINUTES OF THE BOARD OF ADJUSTMENT DECEMBER 16, 2015

ORDER: The meeting was called to order at 7:30 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, Ms. Baggs, Ms. Checca, Mr. Kenney, Mr. Moore, Mr. Reynolds (arrived at 7:45 p.m.), Mr. Sullivan, and Mr. Petto.

MINUTES: The minutes of the October 21, 2015 meeting were offered for any suggested changes. Mr. Harrison noted some edits. Mr. Fleischer made a motion to approve the minutes as amended, seconded by Mr. Susswein. The minutes were approved unanimously with Ms. Baggs and Mr. Moore abstaining.

The minutes of the November 18, 2015 meeting were offered for any suggested changes. Ms. Baggs, Mr. Fleischer and Mr. Harrison noted a few minor edits. Mr. Fleischer made a motion to approve the minutes as amended, seconded by Mr. Susswein. The minutes were approved unanimously with Ms. Checca and Mr. Reynolds abstaining.

SCHEDULE OF MEETINGS: Chair Harrison reviewed the schedule of meetings with the Board. He noted that the date of the December 21, 2016 meeting was close to the Christmas holiday. The Board approved the 2016 Schedule of Meetings as submitted.

OLD BUSINESS:

Resolution for App 2428: H&R Block E.E., Inc. 295 Bloomfield Ave. Use variance for professional office on first floor in C-1 Center Area zone.

Mr. Harrison introduced the resolution for any suggested changes by the Board. Mr. Harrison noted some edits to the resolution. Mr. Fleischer made a motion to approve the resolution as amended, seconded by Mr. Susswein. The resolution was approved unanimously with Ms. Checca and Mr. Reynolds abstaining.

Resolution for App. 2433: Eric Rojas. 37 Carolin Road. Bulk variance for third story addition.

Mr. Harrison introduced the resolution for any suggested changes by the Board. Mr. Fleischer made a motion to approve the resolution, seconded by Mr. Susswein. The resolution was approved unanimously with Ms. Checca and Mr. Reynolds abstaining.

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

Mr. Harrison recused himself from the application.

Mr. Fleischer introduced the application.

Mr. Alan Trembulak represented the applicant. Mr. Trembulak introduced Mr. Steven Plofker of Montclair Town Center, LLC.

Mr. Plofker noted that a sound engineer has been consulted to assist in addressing any noise issues from the proposed event use in the Carriage House. He noted that the sound engineer has stated that the proposed addition can be "sound quiet" which will reduce any noise so adjacent residents will not be able to hear it.

Mr. Plofker noted that discussions were held with the adjacent property owner to the north of the subject property to discuss mitigating any impacts of the proposed project.

Mr. Trembulak noted that Mr. Plofker is now under contract to purchase the property at 315 Claremont Avenue.

Ms. Baggs asked if the applicant was interested in acquiring the property to the north. Mr. Plofker replied no and noted that discussions with the owner were held to discuss the project.

Questions from the public were then accepted.

Kathryn Chandler, 7 Highmont Terrace, asked for clarification of the properties along Claremont Avenue. Mr. Plofker clarified the three residential properties along Claremont Avenue, one presently owned and two under contract for purchase.

Mr. Trembulak noted that the attorney for the property owner of 315 Claremont Avenue would like to address the Board.

Mr. Steven Kaplan, attorney for the property owner at 315 Claremont Avenue, addressed the Board. Mr. Kaplan stated that the owner of 315 Claremont Avenue has entered a contract to sell his property to Montclair Town Center, LLC. He stated that all previous objections to the application by the property owner have been withdrawn and that the owner currently has no objection to the application. Mr. Fleischer noted that the applicant only posed questions at the previous hearing and did not provide testimony.

Mr. Trembulak then introduced Mr. Paul Sionas, architect for the applicant.

Mr. Sionas presented a PowerPoint of the proposed project to the Board.

Mr. Sionas noted the requested variances, in addition to the use variance by the applicant. He noted that a proposed wall around the garden area would reach a height of eight feet, which would require a variance. He also noted that 2 setback variances would be required for the Carriage House and its proposed addition.

Mr. Sionas reviewed the Planning Considerations prepared by the Planning Department, as well as the memo by Board Engineer Tom Watkinson and the comments provided by the Historic Preservation Commission.

Following the presentation, questions from the Board were then accepted.

Mr. Susswein noted concerns about parking for the proposed event use. He noted that the space could have 125 attendees to an event plus additional entertainment and service staff. He stated that seven spaces, as noted in the Planning Department memo, would be unreasonable. He noted that the use may be more similar to that of a bar/tavern which requires 1 space per every 2 seats under the Township Code. Mr. Susswein also noted that restaurant uses require 1 parking space for every 3 seats and clubs require 1 space for every 100 square feet of floor area. He stated that he was confused as to why the parking requirement for the use was so low. Mr. Trembulak stated that Mr. Keller would testify on the parking issue.

Mr. Susswein continued noting that 69 parking spaces in total on the site plus additional on-street parking in the area does alleviate the concern a little bit. However, he stated that he was very suspect of the proposed parking ratio in the Planning Department's memo.

Mr. Susswein noted concerns about the sound and stated that events, particularly weddings, can be quite loud. He asked what the possible interior decibel level would be during these events. Mr. Trembulak stated that Mr. Keller would testify on the potential sound during these events. He noted that Mr. Sionas can speak to the attenuation of sound.

Mr. Susswein asked about the acoustic expert/sound engineer noted by Mr. Plofker. He stated that this expert should testify before the board to help establish the initial sound level of the events to determine attenuation of sound.

Mr. Susswein noted that there will be small speakers installed in the venue. However, he noted that outside vendors could bring amplified equipment into the space. Mr. Sionas stated that no outside sound equipment would be permitted. Mr. Sionas noted that the installed speakers would be controlled by management of the venue not by outside vendors.

Mr. Susswein stated that while the testimony noted that the sliding door would remain closed during events, he noted that no means to prevent the door from opening were presented. Mr. Sionas stated that the doors will open to the garden area and that there is some distance to the adjacent buildings. Mr. Sionas also noted that the doors must remain operable and cannot be locked to comply with state requirements.

Ms. Checca asked about the sound level and noted that the required maximum along property lines is between 50 and 60 decibels. Ms. Checca further stated that the granting of a variance would remain with the property in perpetuity. She asked if management of the sound would continue. Mr. Sionas noted that there are existing state laws to govern sound and that the police would provide additional monitoring of noise levels.

Ms. Checca noted that previous testimony indicated that there would only be one staff person on site. She asked if this was in fact the case. Mr. Plofker stated that increased staffing levels will be required during events.

Mr. Kenney asked if the applicant would be willing to consider a condition that a supervisor must be on the premises during any use of the Carriage House. Mr. Plofker

replied yes and stated that the applicant would also be amenable to sound requirements and a restriction on the use of outside sound equipment.

Mr. Susswein stated the potential of noise is the determining factor in considering the variance application. He stated that the lack of an acoustic expert makes the testimony thus far difficult to rely upon.

Mr. Moore asked if the windows would be sound-proofed to minimize noise. Mr. Sionas replied yes, noting that an acoustic expert was consulted. He noted that the weakest link in the new addition sound mitigation was the proposed sliding door.

Ms. Checca asked if the windows to be used in the project are meant for sound-proofing. Mr. Sionas said that those type of windows could be used here.

Ms. Baggs asked about the Carriage House and noted that in previous testimony it was stated that there was a fire in the building. She asked if Mr. Sionas had examined the inside of the building. Mr. Sionas stated yes, he has examined the building and noted that the fire damaged interior finishes only and did not cause any structural damage.

Ms. Baggs noted that it appears the Carriage House could have a garage on the first floor. She asked if the second floor could be used for apartments. Mr. Sionas stated yes, the space on the second floor could be used as residential.

Ms. Baggs asked what would be needed in order to convert the building into residential use on the second floor. Mr. Sionas noted that previously, the second floor was used as residential space. He noted that on the first floor a bathroom, kitchen, bedroom and living area would need to be added.

Ms. Baggs asked about the required amount of changes to convert the space to the proposed event space use in comparison to a residential use. Mr. Sionas noted that the elevator was required in this plan to access the bathroom on the second level.

Ms. Baggs asked if the proposed conversion would require more or less work than converting the space to all residential use. Mr. Sionas noted that a conversion to residential would require the construction of a full kitchen and bathroom on each level of the Carriage House. He stated that the plans as presented are fairly simple architectural plans which include the restoration of historic elements of the Carriage House.

Ms. Baggs asked what the occupancy load of the space would be. Mr. Sionas noted that 125 people was mentioned by Mr. Plofker. Mr. Sionas noted that per building code up to 180 people could occupy the space, however he noted that would not logistically be feasible.

Ms. Baggs asked about the suitability of the site for the proposed use with respect to fire safety. Mr. Sionas noted that there is sufficient access to the site for emergency response.

Ms. Baggs asked about exit access from the proposed garden area. Mr. Sionas noted that there is open access to the garden area from the parking area in the plans. He noted that this area is about 43 feet from the adjacent residential properties.

Ms. Baggs asked about the carriage house and the existing 3-family dwelling on the same tax lot. She asked if this situation fulfilled the intent of the conditional use of 3-family dwellings in the R-3 zone. Mr. Sionas stated that the 3-family is an existing use. He noted agreement with the HPC recommendation that some of the paving nearest the residential use be reduced to mitigate any impacts to the residential use.

Mr. Kenney asked about parking. He noted on sheet SP-1 a note under the parking requirements for the use of the Carriage House that stated "no separate requirement, accessory to the hotel." Mr. Kenney asked if a category should be picked. He asked Mr. Sionas if the use would be accessory to the hotel. Mr. Sionas replied yes.

Mr. Kenney noted that given the current lot configuration, the hotel and the Carriage House are not on the same lot. He also noted that the Carriage House lot has the 3-family dwelling and has 2 principal uses on one lot.

Mr. Trembulak noted that under the last application the lot lines were adjusted. He stated that the applicant would be happy to re-subdivide the property to restore the hotel and Carriage House on the same lot. Mr. Fleischer stated that the garden area to the rear of the Carriage House should also be included on this lot, as it is associated with the use of the Carriage House and hotel.

Mr. Reynolds stated that while he understands the desire to incorporate additional green space while preserving the parking. He asked Mr. Sionas how more green space could be incorporated. Mr. Sionas stated that some parking spaces near the residential uses could be eliminated to create green space.

Mr. Fleischer stated that he has concerns with this application in context with prior development proposals for the property. He asked how many people would be using the Carriage house and if there would be any other uses. He noted that this is proposed to be quite a large space of around 2,700 square feet. He noted that testimony indicated a variety of event types in the space, from lectures to weddings. He asked if the applicant could provide maximum capacity for each of these use cases. He asked if the applicant would be amenable to a condition that only certain event uses be permitted.

Mr. Plofker stated that the uses of the Carriage House would be normal and customary accessory uses of a hotel. He noted that this could include private parties, meetings, recitals, etc. He stated that use of the Carriage House would not be exclusive to hotel guests and the space could be rented to anyone. He stated that the Carriage House could be torn down and an addition could be constructed onto the hotel to accommodate these uses. However, he stated that the intent of the application is to preserve the Carriage House structure. He noted that previous renovations of the Carriage House were not in alignment with the historic standards for rehabilitation. He stated that use of the Carriage House as residential would create access issues on-site. He reiterated that the use of the Carriage House would be an accessory to the hotel.

Mr. Fleischer noted that there are clear definitions of use within the state building code that indicate occupancy limits. He noted that while there is extra parking on-site, he stated that parking should not be reduced. He stated there should be clarification on the parking demand and expected occupancy of the Carriage House.

Mr. Kenney asked if the hotel was to be a no-smoking facility. Mr. Plofker replied yes.

Mr. Kenney noted that traditionally, outside noise during events is associated with smokers outdoors. He asked if the applicant would be willing to consider a condition of no smoking on the premises. Mr. Plofker stated yes, however he noted that in reality it is difficult to ensure no smoking on the premises and stated that it is likely there will be smoking on site even when not permitted. Mr. Kenney stated his concerns were largely with respect to the front door of the Carriage House and noted that perhaps smoking could be confined near the lawn area only.

Mr. Fleischer announced the Board would take a break from 10:05pm to 10:10pm. Mr. Fleischer requested the other pending applicants to be continued to the hearing on January 20, 2016 as it was unlikely the Board would have time to review the applications during this meeting. The applicants agreed to such a continuation.

The Board returned from the break at about 10:15pm.

Mr. Fleischer asked Mr. Sionas to clarify details of the catering kitchen facility in the Carriage House. Mr. Sionas noted that there would be 2 refrigerators, a working counter top surface area, four sinks with one being a triple sink, as well as a pass through service window.

Mr. Fleischer asked if there would be any heating appliance in the kitchen. Mr. Sionas stated that none has been shown on the plans.

Mr. Fleischer asked about the trash enclosure and if it would be of sufficient size and scale to accommodate a banquet facility and hotel. Mr. Plofker stated that the frequency of pick-ups would be increased to accommodate trash removal from the facilities. He noted that larger enclosures and less frequent collection will result in refuse sitting for longer periods. He noted that dishes would not be washed on site as catering services will take dishes with them.

Mr. Fleischer asked about sound levels. He asked if 60-65 decibels was a normal sound volume in a residential area. Mr. Sionas stated that 60 decibels is a standard conversation volume.

Mr. Fleischer asked about the placement on the property of the proposed event use and the distance to adjacent residential uses. He asked Mr. Sionas what the distance from the Carriage House to the 5 unit apartment building on the lot to the north of the subject property was. Mr. Sionas stated it was about 52 feet in distance and that there were 3 windows on that northern façade of the Carriage House.

Mr. Fleischer reiterated that his concern is noise generated by events and the impact on adjacent residential properties. He noted that the proposed conservatory addition is all glass windows. Mr. Sionas noted that the applicant would be using triple pane windows.

Mr. Fleischer asked about the condensing units for the HVAC system. He asked if the units could be placed internally on the second floor of the Carriage House. Mr. Sionas stated that the units could be placed in this location.

Mr. Fleischer asked if Mr. Sionas had time during the recess to review the occupancy of the building by use type. Mr. Sionas replied yes and reviewed his findings in accordance with the building code. Mr. Sionas noted that the event space in the

Carriage House could accommodate 180 people seated at tables and chairs, 337 people when used as standing room only, and about 150 people for a lecture seating format.

Mr. Fleischer asked if there would be a staff person working during events to oversee the event operations. He noted that outside bands typically provide their own equipment. He asked if the speakers to be used in the facility would be sufficient for use by a band or other outside entertainment vendor. He noted that live music volume will be difficult to regulate.

Mr. Plofker stated that the applicant would be willing to bring a sound person in to provide testimony.

Mr. Reynolds asked if a final occupancy load for the space had been selected. Mr. Plofker replied no.

Ms. Baggs asked if the applicant was proposing to sprinkle the building. Mr. Sionas stated that if sprinklers are required, the applicant would comply.

Mr. Trembulak then introduced Mr. Richard Keller, professional planner for the project.

Mr. Keller reviewed the existing zoning of the property. He also noted that the lots could be re-subdivided to re-join the hotel and carriage house back together on one lot. Mr. Fleischer asked if the applicant would be willing to do that. Mr. Trembulak replied yes. Mr. Keller stated that it could be a condition of approval.

Mr. Keller introduced Exhibit A-4, an illustration of buildings in the area and distances to adjacent properties.

Mr. Fleischer asked what the depth of the lot was for the property located at 319 Claremont Avenue. Mr. Keller replied it was about 135 feet.

Mr. Keller reviewed the parking standards for hotel uses. He noted that the requirement is one space per room. He also noted that the hotel is key to the success of the event space and stated that many event spaces in the area have a relationship with a hotel.

Mr. Keller reviewed the requested variances by the applicant.

Mr. Keller noted that the property is particularly suited for the proposed use as it will complement the hotel, it is a reuse of an historic building and it will restore the character of the historic building.

Mr. Fleischer noted that Mr. Keller referenced a setback variance for the HVAC units. He stated that Mr. Sionas had testified that these units could be placed within the building on the second floor which would eliminate that variance.

Mr. Sullivan asked for a clarification of Mr. Keller's testimony that a proposed subdivision would place the Carriage House and lawn area on the same lot as the hotel, which is Lot 20. Mr. Keller replied yes.

Questions from the Board were then accepted.

Mr. Susswein stated that he does not have a strong opinion with respect to the subdivision. He stated an appreciation for the professional planner's testimony. He noted that the most desirable space will be the lawn area adjacent to the Carriage

House during warmer weather. He noted that there is no clear way to seal guests within the building to prevent guests being outdoors later into the evening, which would reduce noise. He stated that he has concerns about subsequent ownership of the catering facility/event space. He noted that he would appreciate testimony by an acoustic expert to discuss sound. Mr. Susswein stated that additional information is needed about sound. He noted that he does remain skeptical.

Mr. Keller replied that typically a wedding is approximately 80-90 decibels in sound level. He noted that while outdoor spaces will be desirable, there will not be any amplified music. Mr. Keller noted that a wedding could be held in any private backyard in the township. He stated that the applicant is open to a condition of no amplified music, no outside sound equipment and that the doors must remain closed. He also noted that the applicant must conform to the Township's existing sound/noise ordinance.

Mr. Susswein asked if decibels increase in level exponentially. Mr. Keller stated yes, however he noted that distance can help to attenuate sound levels. Mr. Susswein noted that further clarification on this would be needed.

Mr. Kenney asked about codes relating to parking and gross floor area. He asked what the area was for the Carriage House. Mr. Keller stated that capacity is based upon occupy-able space. He noted that the bathroom, prep kitchen and the storage area upstairs would not count against occupy-able space. He stated that the space requires all occupants to be in the space at once.

Mr. Kenney asked if other doors in the proposed addition could be modified. He asked if the sliding door could be eliminated. Mr. Keller stated that yes, it could be eliminated.

Mr. Kenney stated that the sliding door is the last remaining issue for him regarding sound. He noted that sound does bounce off surfaces and he agreed with Mr. Susswein that is a remaining issue. He stated that the application would be better if the sliding door in the conservatory was eliminated and replaced with a swing door with an alarm. He noted that re-linking the hotel and the Carriage House do give the application credibility with respect to the positive and negative criteria presented by Mr. Keller. He stated that addressing the outstanding noise issues, more details on guest management and a reconfiguration of the lots could make the application more favorable.

Mr. Reynolds stated that he would like to see additional green space near the residential uses on the site. He also noted that the proposed event spaces should be on the same lot as the hotel use.

Ms. Baggs stated that it would not make a difference if the uses were all on one reconfigured lot. She noted to Mr. Keller that it was stated that the site borders the OR-3 commercial zone and asked for clarification. Mr. Keller stated the N-C zone, which is commercial, is located further up Valley Road, but that the property does border the OR-3 zone, which does not permit commercial but rather permits office use.

Ms. Baggs asked if Mr. Keller viewed the R-3 zone as a transitional zone. Mr. Keller replied yes, stating the zone provides a transition between more/less dense residential and office uses.

Mr. Fleischer asked Mr. Plofker would be prepared to have only one controlled sound system within the facility used for events. Mr. Plofker stated that it would be acceptable

to require any potential user of the facility to use the sound system installed in the Carriage House. Mr. Plofker stated that the conservatory could be modified to reduce sound in that area. He stated that the system could be engineered/designed specifically for the event space in the Carriage House.

Mr. Fleischer asked if the elevator tower could be reconfigured to align with the exterior wall of the kitchen to reduce the yard setback variance. Mr. Sionas prelied yes.

Mr. Fleischer stated that if the applicant intends to proceed with considering the Carriage House event use as an accessory use of the hotel, it must be located on the same lot as the hotel. He noted that if it remains on separate lots, it would be viewed differently. He noted that this would also adjust the rear and side yard definitions, with the lot reconfiguration.

Mr. Fleischer stated that the reality is that the proposed use is within a residential zone. He noted that typically uses of this type would be in a more mixed use area.

Comments from the public were then accepted.

Ms. Barbara Lawn, 165 Cedar Street, Cedar Grove addressed the Board. Ms. Lawn is the owner of 39 North Mountain Avenue, which is adjacent to the subject property. She noted that there is a sanitary line from her lot that runs beneath the subject property to Claremont Avenue. She noted that the applicant should note the location of this line and ensure it is protected during any site work. Ms. Lawn stated that she supports the reuse of the property and the proposed project. She also stated appreciation for the Board's work.

Mr. Trembulak stated that the applicant would work to address the board's comments and continue testimony at the January 20, 2016 meeting of the Board of Adjustment. The Board agreed to carry the application to that meeting.

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

Mr. Fleischer asked the applicant during the 10:05pm-10:10pm recess if this application could be postponed to the January 20, 2016 meeting of the Board of Adjustment. The applicant agreed to the request.

NEW BUSINESS:

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

Mr. Fleischer asked the applicant during the 10:05pm-10:10pm recess if this application could be postponed to the January 20, 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 10:05pm-10:10pm recess if this application could be postponed to the January 20, 2016 meeting of the Board of Adjustment. The applicant agreed to the request.

APPOINTMENT OF BOARD PROFESSIONALS

Mr. Petto summarized the proposals submitted the board's professionals and noted that the Chair and Vice Chair had reviewed the proposals.

Mr. Fleischer noted that the proposals were reviewed and it was determined that the current professionals should be retained.

A motion was made by Mr. Susswein to reappoint Mr. Sullivan as Board Attorney and Mr. Watkinson as Board Engineer, seconded by Mr. Kenney. The motion was approved unanimously.

ADJOURNMENT

A motion to adjourn the meeting was offered by Ms. Baggs, seconded by Mr. Kenney. The meeting was adjourned at 12:15am, December 17, 2015.

Respectfully submitted,

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

Graham Petto, AICP
Zoning Board of Adjustment Assistant Secretary