

**MINUTES OF THE BOARD OF ADJUSTMENT
JULY 16, 2014**

PRESENT: Chair Harrison, Mr. Burr, Ms. Checca, Mr. Fleischer, Mr. Kenney, Mr. Reynolds, Mr. Susswein, Mr. Tsai, and Vice Chair Whipple; also Mr. Sullivan, Esq., Ms. Talley, Secretary, and Mr. Charreun, Assistant Secretary

ABSENT: Mr. Edwards

Mr. Charreun called the roll and announced the regular meeting of the Montclair Board of Adjustment. Notice had been given in accordance with the Open Public Meetings Act.

On motion by Mr. Whipple, seconded by Mr. Fleischer, the **Minutes of the June 18, 2014** meeting were adopted as modified, Mr. Tsai and Mr. Reynolds abstaining.

On motion by Mr. Whipple, seconded by Mr. Fleischer, the following resolution memorializing the Board's decision on the application of **Evan Rudall, 716 Valley Road** was adopted as modified, Mr. Tsai and Mr. Reynolds abstaining:

WHEREAS, Evan Rudall, did make an application to the Board of Adjustment of the Township of Montclair for variances pursuant to N.J.S.A. 40:55D-70c to construct a detached garage and to install fencing, on property designated as Lot 2 in Block 1802 on the Township Tax Map and located in the R-2 Two-Family Zone; and

WHEREAS, the property is a corner lot at the intersection of Valley Road and Glenwood Place; and

WHEREAS, the applicant requested the following relief:

1. For the new garage, a variance from Montclair Code Section 347-52 for a setback of less than 28 feet from the Glenwood Place front property line; and
2. For the new garage, a variance from Montclair Code Section 347-52 for a setback of less than 6 feet from the rear property line; and
3. For the new fencing, a variance from Montclair Code Section 347-27A(2) to exceed the maximum permitted height for a fence in the front yard; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on June 18, 2014, at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the applicant submitted a property survey, and plans by John Guadagnoli, Architect, dated May 6, 2014; and

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

1. The property is a corner lot at the intersection of Valley Road and Glenwood Place and is located in the R-2 Two-Family Zone. The property contains a two family dwelling and a detached garage accessed by a short driveway from Glenwood Place. The lot measures 107 feet by 135 feet.

2. The existing garage measures approximately 18 feet by 18 feet, and is in disrepair and needs to be demolished. The existing garage is nonconforming as it is located as close as 6.19 feet to the Glenwood Place front property line where a minimum of 28 feet is required, and 0.52 feet to the rear property line where a minimum of 6 feet is required.

3. The proposed garage would measure 24 feet by 24 feet. The setback from the Glenwood Place front property line would be increased to 18 feet, and the setback from the rear property line would be increased to 3 feet.

4. A 6.5 foot tall fence is proposed to run between the dwelling and the new garage that would partially be located in the Glenwood Place front yard of the property. The part of the fence that is within the Glenwood Place front yard is limited to a maximum height of 4.5 feet and requires a variance.

5. The Board determined that the variances requested for the detached garage could be approved. The setbacks of the new garage are a significant improvement from the existing condition, and based on the characteristics of the properties in the neighborhood, the variances requested for the garage will not have a negative impact.

6. The majority of the Board also determined that the variance requested for fence height could not be approved. The property and its characteristics are not significantly unique enough to warrant special consideration as it relates to the fence height; and

WHEREAS, the Board, based upon the foregoing findings regarding the variances requested for the new garage, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and proved that the variances could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings regarding the variances requested for the new garage, concluded that the applicant proved that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variances 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 pursuant to the requirements of NJSA40:55D-70C(2); and

WHEREAS, the Board, based upon the foregoing findings regarding the variance requested for the fence height, concluded that the applicant did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and did not prove that the variances could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings regarding the variance requested for the fence height, concluded that the applicant did not prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, did not prove that the benefits of the deviation would substantially outweigh any detriment, and did not prove that the variance 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 pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the variances requested for the new garage are hereby approved; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the variance requested for the fence height is hereby denied; and

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

It was announced that at the request of the applicant, the continuation of the application of **Sprint Corporation, L.P., 630 Valley Road**, was postponed until the August 20, 2014 meeting of the Board. The Board was granted an extension of time and no further notice would be given. It was also announced that at the request of the applicant, the application of **David & Naomi Kirkman, 722 Valley Road** was postponed until the August 20, 2014 meeting of the Board, and that no further notice would be given.

Chair Harrison was recused and left the meeting. Vice Chair Whipple announced the continuation of the application of **Montclair Town Center, LLC, 37 North Mountain Avenue and 323 Claremont Avenue**. Alan Trembulak, Esq. appeared as attorney for the applicant and described the application. The applicant has now provided a more fully developed site plan submission and has completed a revised public notice to include site plan approval.

Paul Sionas, Architect, was recalled and described the revised plans. Mr. Sionas reiterated much of his prior testimony and also described the updates and revisions to the plan. This application has been amended to include site plan approval for both proposed Lot 19 and Lot 20. The parking lot on Lot 20 has been reconfigured to increase the setback from the Claremont Avenue property line from 12 feet to 28 feet. The setback from the North Mountain Avenue property line has decreased from 40 feet to 21 feet. The number of parking spaces in the smaller parking area has been reduced from 17 to 14. The direction of cars using the driveway connecting the front of the hotel to the rear parking area has been reversed. Parking details for each lot have been provided, indicating a total of 32 spaces on Lot 20 and 35 spaces on Lot 19. Mr. Sionas described the landscape and lighting plan in detail.

Exhibit marked:

A-7 Sheet SP2 by Sionas Architecture revised 06-12-14

The Board questioned the witness. Mr. Sionas described the lighting plan and how the applicant could add more lighting to specific areas of the site lacking illumination. He also addressed the proposed dumpster enclosure and whether it would comply with the ordinance. Steven Plofker, managing member of the LLC that owns the property, was recalled. Mr. Plofker also addressed the questions relating to site lighting and the dumpster enclosure. Both Mr. Sionas and Mr. Plofker both addressed questions and pending issues relating to the Historic Preservation Commission's review of the project. Mr. Plofker addressed questions relating to the position of the proposed subdivision line. He stated that the subdivision line could be moved to better address concerns about the driveway and service area at the rear of the hotel. There were no questions from the public.

Exhibit marked:

A-8 Sheet SP3 by Sionas Architecture, dated, 06-12-14, with a revised subdivision line drawn in by hand at the meeting

Richard Keller, Professional Engineer and Professional Planner, was sworn and stated his qualifications. Mr. Keller addressed questions from the Board regarding redesigning the driveway and parking areas to increase landscape buffer areas. He also addressed the issue of reconfiguring the proposed subdivision line to allow improved

driveway circulation at the rear of the Georgian Inn. He also addressed the Board Engineer's July 10, 2014 review letter. Based on the various revisions the Board was seeking with the subdivision, site plan, and bulk variances, Mr. Keller limited his Planning testimony to the 2 use variances required for Lot 20, which contains the Georgian Inn. The use variance required to reconfigure Lot 19 that would contain the carriage house and multifamily dwelling, as well as site plan approval, and approval of bulk variances, would be deferred to a subsequent meeting. Lot 20 requires a use variance to expand the existing nonconforming use of the Inn with building additions and parking areas, and also requires a use variance for the height of the elevator tower. He provided testimony relating to these 2 use variances pursuant to the Municipal Land Use Law and referenced the Township's Master Plan, and requested that the Board approve these 2 use variances.

Exhibit marked:

A-9 Aerial photograph

The Board questioned the witness. Mr. Keller addressed questions regarding the semi-circular driveway in the North Mountain front yard and how it would function. Vice Chair Whipple called for questions from the public. Ronald Istivan 315 Claremont Avenue, asked how the new driveways and traffic would affect the existing street parking on Claremont Avenue and North Mountain Avenue. He also asked if the applicant had any studies to support their testimony that there would be no negative impact on parking and traffic in the area. Mr. Keller stated that the hotel use of size proposed does not warrant a traffic study and the plan provides sufficient on-site parking.

Mr. Trembulak asked that the Board vote on the 2 use variances requested for Lot 20 containing the Georgian Inn. The Board discussed the 2 use variances for Lot 20. A motion to approve the 2 use variances in question was made by Mr. Fleischer, which was seconded by Mr. Reynolds, and was unanimously approved 7-0, subject to conditions, with Mr. Susswein abstaining. The conditions included returning to the Board for subdivision, site plan, the use variance for Lot 19, and any bulk variances that are required, as well as returning to the HPC to address certain issues raised in their last report.

It was announced that the application would continue at the August 20, 2014, and that no further notice will be required. The Board was granted an extension of time. On motion by Mr. Fleischer, seconded by Mr. Burr, the meeting was adjourned.