

MINUTES OF THE BOARD OF ADJUSTMENT
August 20, 2014

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

ABSENT: Mr. Burr, Ms. Checca, Mr. Edwards, and Vice Chair Whipple

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. Fleischer, seconded by Mr. Kenney, the **Minutes of the July 16, 2014** meeting were adopted.

Chair Harrison was recused from the first application and left the meeting room. With Vice Chair Whipple being absent, the Board elected a temporary Chair. On motion by Mr. Fleischer, seconded by Mr. Kenney, Mr. Susswein was selected as temporary Chair.

The continuation of the application of **Montclair Town Center, LLC, 37 North Mountain Avenue and 323 Claremont Avenue** was announced. Alan Trembulak, Esq. appeared as attorney for the applicant. Paul Sionas, Architect, was recalled and described the revised plans. He described revised Sheets SP-1, SP-2, and SP-4. The position of the proposed subdivision line has been changed. The parking lot for Lot 19 has been redesigned. Variances for the northerly setback of the Georgian Inn building and the number of parking spaces provided have been eliminated. A driveway from Claremont Avenue has been shifted. 35 spaces would be provided on Lot 19 which requires 27 spaces. 34 spaces provided on Lot 20, which meets the requirement for the 34 room hotel. Landscape islands have been added to the plan and landscape buffering is added between the parking area and Claremont Avenue. He also described the new loading area and the improved trash and recycling area. He also described the revised signage and lighting plan.

Exhibit marked:

A-10 Sheet SP2 by Sionas Architecture revised 06-12-14

The Board questioned the witnesses about the revised plans, particularly the subdivision line and the pavement and landscaping options. Mr. Sionas addressed several questions regarding the revised plans. Steven Plofker, managing member of the LLC that owns the property, was recalled and also addressed several questions about the revised plans. Richard Keller, Professional Engineer and Professional Planner, was also recalled and also addressed questions about the revised plans. After more

discussion, Mr. Plofker stated that the plan could be revised by eliminating 5 parking spaces and adding landscaping. The subdivision line could also be repositioned again. The landscape islands can be increased in size.

Chair Susswein called for questions from the public. Ronald Istivan 315 Claremont Avenue asked if the grading and drainage plan would address the storm water runoff that flows downhill eastward towards his property. Mr. Sionas and Mr. Keller stated that the grading and drainage plan was submitted to the Board Engineer. Mr. Keller stated that he would provide additional testimony later in the hearing on that topic.

The Board took a short recess. Upon returning, it was announced that the application of **David & Naomi Kirkman, 722 Valley Road** was would be carried to the September 17, 2014 meeting of the Board, and that no further notice would be given.

Mr. Trembulak asked the Board to consider voting on the application this evening with the various stipulation made by the applicant through the testimony. Chair Susswein stated that the consensus of the Board is that the applicant should revise the plan to depict the various changes being discussed and submit those plans for a subsequent meeting. Mr. Trembulak stated that the applicant would proceed with Mr. Keller's testimony. Richard Keller, Professional Engineer and Professional Planner, was recalled. He described the grading and drainage plan in detail and stated that it will need to be amended to incorporate the changes being discussed throughout the past hearings on the application. He also addressed the Board Engineer's July 10, 2014 review letter. Chair Susswein called for questions from the public on the site engineering testimony. Ronald Istivan 315 Claremont Avenue, asked several questions about the grading and drainage plan, to which Mr., Keller provided detailed responses. The Board also briefly questioned Mr. Keller on the grading and drainage plan.

Mr. Keller provided the planning testimony relative to the use variance required to reconfigure Lot 19 that would contain the carriage house and multifamily dwelling, as well as the site plan approval, and bulk variances. He provided testimony relating to the relief requested pursuant to the Municipal Land Use Law and referenced the Township's Master Plan. The use variance requested for Lot 19 advances many purposes of planning with the plan as proposed. The Board's positive findings on the prior variances for the uses in the carriage house building are advanced with the various site improvements that would be installed. The parking area setback variances can be granted considering the existing constraints of the site and the various landscaping proposed. He also addressed the variance required for the fence to screen the chiller.

Exhibit marked:

A-11 Subdivision Plat, by Casey & Keller, revised 8-06-14, color added to show property lines

The Board briefly questioned the Mr. Keller. Chair Susswein called for any question or comments from the public. None were offered. Mr. Trembulak asked that the Board carry the continuation of the application the next meeting. It was announced that the application would continue at the September 17, 2014, and that no further notice will be required. The Board was granted an extension of time.

Chair Harrison rejoined the Board. The continuation of the application of **Sprint Corporation, L.P., 630 Valley Road** was announced. Kevin Jones, Esq., appeared as attorney for the applicant. They were last before the Board in May and revised plans have been submitted. Terence Lulay, P.E. was sworn and stated his qualifications. He described the revised plans. The applicant proposes to install three wireless telecommunication antennas, six RRH units and one GPS antenna and remove four Nextel and six Sprint wireless telecommunications antennas. The new Sprint antennas will replace existing antennas at the same height and location. The application also includes replacement of three equipment cabinets. The Board questioned Mr. Lulay. He answered several questions about the size and positioning of the equipment. No questions were offered from the public. Daniel Collins, P.E. was sworn and stated his qualifications. He reviewed the revised FCC Compliance Report, by Pinnacle Telecom Group, dated August 13, 2014, submitted with the application. He stated that the findings in the report conclude that the proposed antennas and related equipment would comply with all applicable State and Federal regulations for radiation frequency levels. The Board questioned Mr. Collins. No questions were offered from the public.

David Karlebach, Professional Planner, was sworn and stated his qualifications. The property is located in the NC Neighborhood Commercial Zone, which permits the installation of telecommunications equipment as a conditional use. The application complies with all of the conditional use standards except for Montclair Code Section 347-17.1C(4)(c) which requires the height of the antenna shall not exceed the top of the parapet wall, penthouse or chimney to which it is attached. The new wireless telecommunications antenna and two RRH units in the alpha sector as well as the GPS antenna located at the northerly end of the building all exceed either the height of the parapet wall or penthouse to which they are attached. Based upon the size and location of the existing building, the proposed roof top location of the site is particularly suited for wireless communication antennas and continues to be an appropriate site for the conditional use notwithstanding the deviations from the conditions imposed by the ordinance. The proposed replacement and modification of antennas encourages appropriate use of land which promotes the general welfare and the overall reduction in the number of antennas provides adequate light, air and open space. The overall reduction in wireless telecommunication antennas will result in a dramatic improvement in appearance of the building representing a public benefit. The application does not involve any noise, vibrations, smoke, dust, odors, heat or glare and thus will not cause substantial detriment to the public good and is not inconsistent with the intent and purpose of the zone plan and zoning ordinance.

Exhibits marked:

A-5 through A-7 Photographs and Photo-simulations of the rooftop with and without the proposed wireless telecommunications equipment

The Board questioned Mr. Karlebach. No questions or comments were offered from the public. The Board discussed the application and determined that the revised application could be approved subject to conditions. On motion by Mr. Fleischer, seconded by Mr. Reynolds, the application was approved, subject to the following conditions:

1. The applicant shall have the revised plans reviewed by the Historic Preservation Commission.

2. The existing four Nextel and six Sprint wireless telecommunications antennas shall be removed as designated on the plan as well as any extraneous poles above the structure to which they are attached.

3. The new antennas shall not exceed the height of the antennas they are replacing.

4. The new antennas shall be painted to match the structure to which they are attached.

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.

On motion by Mr. Fleischer, seconded by Mr. Kenney, the meeting was adjourned.