

MINUTES OF THE BOARD OF ADJUSTMENT
March 28, 2007

PRESENT: Chair Harrison, Ms. Cockey, Vice Chair Fleischer, Ms. Holloway, Mr. Susswein, and Mr. Whipple; also, Mr. Karasick, Esq., and Mr. Charreun, Assistant Secretary

ABSENT: Mr. Haizel, Ms. English, Mr. Rubenstein, and Mr. Franco, Secretary

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

The Board discussed the request for an extension of time on the approved variance application of **R. Luther Flurry and Jarmila T. Packard, 16 Madison Avenue**. On motion by Mr. Fleischer, seconded by Ms. Cockey, the approval was extended to November 14, 2007.

Chair Harrison called the application of **Wallwood Gardens, Inc., 400 Orange Road** and stated that 2 additional Board members would arrive shortly. Robert Taylor, Esq., appeared as attorney for the applicant and marked several Exhibits in the meantime.

Marked into evidence were:

- A-1 Site Plan with color, revised to November 16, 2006
- A-2 Elevations with color, revised to February 13, 2007
- A-3 Floor Plans with color, revised to February 16, 2007
- A-4 Existing Conditions with color, dated September 6, 1996
- A-5 Land Use Plan, prepared by Keller & Kirkpatrick, March 28, 2007

Mr. Whipple and Ms. Holloway arrived. Mr. Taylor described the application and called Rocco Orlando, who was sworn and stated his qualifications as an Architect. Mr. Orlando described the plan and described the revisions from the previously denied application. He stated that the current plan includes a total of 8 dwelling units within 4 buildings on the site. He described the previous plan for 10 dwelling units and compared it to the current proposal, and continued by describing the current plan in detail.

Marked into evidence were:

- A-6 Site Plan with color, dated July 8, 2006, depicting 10 units within 4 buildings

Mr. Orlando stated that the applicant has conducted neighborhood meetings to receive input from nearby residents. He stated that the driveways leading to each individual unit are designed to be in keeping with the driveways in the neighborhood and that the guest parking area that projects into the Orange Road front yard would be screened with densely planted landscaping. He stated that the front doors of units 4 and 5 would face Orange Road and continued by describing the proposed setbacks. He stated that the front setbacks along Ward Place and Pleasant Way are in keeping with the front setbacks of the dwellings along those streets and that landscaping and fencing is proposed along the rear property line to provide some buffering. He stated that the required rear setback is 46.2 feet, and that a small section of the building containing unit 8 encroaches within 20 feet of the rear property line, with the remainder of the development maintaining a 25-foot setback. He also stated that the principal building coverage is 27.5%, which is a reduction from the previous proposal and continued by describing the exterior elevations. He stated that the central air-conditioning units and trash cans for each unit would be located behind each dwelling unit.

The Board questioned Mr. Orlando. He stated that the exterior stairs are not depicted accurately on the site plan. He also acknowledged there are discrepancies in how the front entrance landings and roof coverings are depicted between the site plan and elevations. He stated that he has received the Township Engineer's comments on the design of the sidewalk and driveway aprons, and that the plan will be revised to have a continuous side walk through the proposed driveways.

Chair Harrison called for questions from the public.

Ethel Booker, 24 Ward Place, asked how wide the proposed dwellings units are. Mr. Orlando stated that the proposed units measure 22 feet in width.

William Scott, 23 Cedar Avenue, asked how many variances are being requested and if a subdivision for the development of single-family dwellings has been considered.

Richard Williams, 22 Ward Place, asked whether a lower density plan has been considered.

James Dargan, 391 Orange Road, asked Mr. Orlando if he could identify the neighborhood representative that met with applicant. He also inquired about visitor parking and snow removal.

Sybil Smith-Darlington, 67 Pleasant Way, asked how the proposed driveways would affect the number of parking spaces on the street.

Janet Hubert-Kraft, 5 Ward Place, how far the nearest proposed driveway on Ward Place would be from the stop sign at the intersection with Orange Road.

Mr. Taylor called George P. James, who was sworn and stated his qualifications as a Professional Planner. Mr. James described the application, the variances

requested, and the existing nonconforming use. He referred to Exhibit A-5 Land Use Plan, described the existing land uses in the area and stated that 25% of the properties in the study area depicted on Exhibit A-5 contain multiple dwelling units. He also stated that most of the lots are nonconforming in terms of their size and bulk requirements. He stated that the proposed change from a commercial use to a residential use is beneficial to the neighborhood and that the requested variances from the bulk requirements have been improved from the previous applications. He stated that the requested bulk variances can be granted without substantial detriment to the public good and that the benefits of the deviations outweigh any detriments.

Mr. James addressed the subdivision possibilities on the subject property and stated that having 3 street frontages is a constraint that reduces the amount of developable land. He stated that only 2 conforming buildable lots can be produced from the subject property, which is less compatible with the existing density and development pattern of the area than the current proposal.

Marked into evidence was:

A-7 Summary Residential Density Comparison on a single sheet

Mr. James described Exhibit A-7 and stated that based on theoretical lot sizes and units per acre in the R-1 Zone, 4.4 units would be permitted on the site. Using the same logic, he explained that 8.8 units would be permitted on the site if R-2 Zoning standards were used, and 8 units permitted if R-3 standards were utilized. He stated that the property is unique and that the Board previously determined that the property is unlikely to be developed with a conforming use. He stated that the proposed residential use is in greater conformity with the neighborhood than the existing commercial use and is a better zoning alternative functionally and aesthetically for the site. Mr. James stated that the proposed use promotes the general welfare by providing new housing and that the site is particularly suited for the proposed use and that the development promotes a desirable visual environment and offers an efficient use of land. He continued by stating that the proposed development would not cause substantial detriment to the public good, would not impair the purpose and intent of the zoning ordinance and Master Plan, and that the application furthers the purposes of the municipal land use law.

The Board questioned Mr. James. He stated that if the 2-way driveway on the site is viewed as an alley by the Residential Site Improvement Standards, it is conforming having an 18-foot width. He also stated that the number of parking spaces proposed is based on the Residential Site Improvement Standards for townhouses, although what is proposed on the site is defined as two-family dwellings, which requires 4 less spaces than what is proposed.

Chair Harrison called for questions from the public.

Tracy Phalon, 185 Willowdale Avenue, asked why the existing density patterns in the neighborhood are relevant if the zoning is currently R-1. She also asked if a utilities analysis was done for the project and how many affordable housing units are required.

Sybil Smith-Darlington, 67 Pleasant Way, asked if a development of 4 dwellings units was studied considering the testimony indicating that 4 units is the correct density.

Richard Williams, 22 Ward Place, asked whether a lower density plan has been considered.

Stanley White, 439 Orange Road, asked how long the R-1 Zone designation has been in place in the area. He also asked how many lawful nonconforming homes in the area pre-date the current R-1 zoning requirements.

Mr. Taylor stated that he had no further witnesses. Chair Harrison called for a short recess.

Chair Harrison called for public comment.

Tracy Phalon, 185 Willowdale Avenue, was sworn and stated her opposition to the application.

Ethel Booker, 24 Ward Place, was sworn and stated her opposition to the application.

William Scott, 23 Cedar Avenue, was sworn and stated his opposition to the application.

James Dargan, 391 Orange Road, was sworn and stated his opposition to the application.

Sybil Smith-Darlington, 67 Pleasant Way, was sworn and stated her opposition to the application.

Janet Hubert-Kraft, 5 Ward Place, was sworn and stated her opposition to the application.

Leonora Rush, 15 Ward Place, was sworn and stated her opposition to the application.

Mr. Taylor requested that the Board's discussion and vote be adjourned to a subsequent meeting until there are 7 eligible Board members present.

Chair Harrison stated that the public hearing on the application is closed and that application would be continued at a special meeting to be held on Wednesday, April 11, 2007, at 7:30 p.m., and that no further notice would be given. Mr. Taylor granted the Board an extension of time. On motion by Mr. Fleischer, seconded by Mr. Susswein, the meeting was adjourned.