

MINUTES OF THE BOARD OF ADJUSTMENT
March 10, 2004

PRESENT: Chair Harrison, Ms. Cockey, Ms. English, Vice Chair Fleischer, Mr. Flood, Mr. Gallardo, Mr. Haizel, Ms. Rock-Bailey, and Mr. Susswein; also, Mr. Trembulak, Esq., Ms. Kadus, Secretary, and Mr. Charreun, Assistant Secretary

ABSENT: None

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.

Chair Harrison called the site plan and variance application of **Montclair Homes, LLC, 8 South Mountain Avenue**. Ms. Cockey recused herself from the Board. David Owen, Esq., appeared as attorney for the applicant and Owen T. Hughes, Esq., appeared as attorney for an interested party who is objecting to the site plan and variance application.

Chair Harrison stated that the amended plans and public notice are substantially different from the plans that were before the Board at the previous hearings on the application and that the applicant should begin from the start with testimony, witnesses, and exhibits. Mr. Owen consented to the Chair's request.

Mr. Flood joined the meeting.

Mr. Hughes stated that the public notice for the application is defective because of the language used to describe the proposal. He stated that the applicant is proposing townhouses, which are not listed as a permitted use in the R-3 Garden Group Zone.

Mr. Owen stated that the public notice is not misleading and that the configuration of Units A and B do not meet the definition of a townhouse. He also stated that townhouses are not specifically listed as a permitted use in any zone within Montclair.

Chair Harrison stated that the zoning ordinance does not make a distinction between townhouses and multifamily buildings. He also stated that the public notice is sufficient and that the public has been reasonably noticed.

Mr. Owen proceeded and described the application. He stated that the plans originally before the Board called for the development of 2 freestanding single-family dwellings and 2 freestanding two-family in addition to the existing single family dwelling on the site and that the plans have been revised to include 2 multifamily buildings and a total of 6 dwelling units. He also stated that the revised plan also preserves the existing dwelling, as it would be incorporated into 1 of the 2 multifamily buildings on the site. He

further stated that subject property has a permitted residential density of 15 units and continued by describing the requested variances.

Mr. Fleischer joined the meeting.

Mr. Owen stated that a use variance is required for the multifamily building containing Units A, B, and C because Unit A, the existing building, is 3½ stories in height, which exceeds the permitted height by more than 10 percent. He also stated that the applicant would demonstrate that the multifamily building containing Units D, E, and F meets the height limit of 2½ stories and that no variances are required for the height of that building. He continued by describing the other variances requested by the applicant and stated that they represent minor departures from the zoning ordinance and that the proposed residential density is well within the permitted residential density.

Mr. Hughes stated that the application is not complete because it lacks any plans of the existing dwelling, which is Unit A in the proposed development, and asked how tall Unit A is in feet.

Mr. Owen stated that the Planning Department has not deemed the application incomplete and stated that Unit A is approximately 38.6 feet in height.

Chair Harrison stated that plans submitted by the applicant are sufficient and that the applicant has conceded to the variance required for the height of Unit A.

Marked into evidence were:

- A-1 Affidavit of Service
- A-2 Proof of Publication of the public notice from the Montclair Times
- A-3 Application to the Board of Adjustment, and cover letter from David Owen, Esq., both dated February 17, 2004
- A-4 Engineering Plans, on 8 sheets, prepared by PPE Corporation, revised through February 17, 2004
- A-5 Drainage Report, prepared by PPE Corporation, revised through February 17, 2004
- A-6 Architectural drawings, on 10 sheets, prepared by William G. Brown, Architects, with 5 sheets dated February 6, 2004, 1 sheet revised through February 4, 2004, 2 sheets dated February 13, 2004, 1 sheet dated January 19, 2004, and 1 sheet dated January 21, 2004

Mr. Owen called Peter Meyer, who was sworn and stated his qualifications as a Licensed Professional Engineer in the State of New Jersey. Mr. Meyer stated that he prepared the plans for the proposed development and described the existing conditions on the site.

Marked into evidence were:

- A-7 Existing Conditions, on a board, prepared by PPE Corporation, dated March 10, 2003
- A-8 Site Plan with color, on a board, prepared by PPE Corporation, revised through February 17, 2004

Mr. Meyer stated that the property is located in the Steep Slope Area of the Township and that the site has an average slope of 13.5 percent. He also stated that the site presently contains a single-family dwelling and a detached garage and continued by describing the proposed site plan. He stated that the view of the existing dwelling from South Mountain Avenue would not be obstructed by the new construction and that no retaining walls on the site would exceed 4.5 feet in height. He also stated that the multifamily building containing Units A, B, and C measures 38.6 feet in height as measured using the standards of the zoning ordinance and that the attached garages for this building would be located on grade rather than 50 percent below grade as required by ordinance. He described the location of the central air-conditioning units on the site and stated that although the condensers for Units E and F require a variance, they are located in the most logical location for energy conservation and noise reduction and would be screened with landscaping. He continued by stating that the proposed driveway width of 12 feet near Unit C should be acceptable because the driveway would only be utilized by 1 vehicle in that area and a turn around area is provided at the terminus of the driveway.

Marked into evidence were:

- A-9 Review letter from the Board Engineer, dated March 9, 2004
- A-10 Approval letter from the Essex County Planning Board, dated March 9, 2004

Mr. Meyer described the landscaping plan and stated that the 7-vehicle parking area and the parking located in front of Unit F would be screened with 4 to 5-foot tall arborvitae and that an evergreen buffer would also be provided along the southerly property line and at the end of the driveway.

The Board questioned Mr. Meyer.

Mr. Meyer stated that 6 three-bedroom dwelling units are proposed and that the New Jersey Residential Site Improvement Standards require a total of 14 off-street parking spaces. He also stated that the attached garages for the building containing Units D, E, and F would be located at least 50 percent below grade level. He further stated that trash for each dwelling unit would be placed at the front of each unit and that the applicant would utilize a private trash collector. He stated He continued by stating that the height of the multifamily building containing Units A, B, and C was obtained

using the proposed grades surrounding the building. Mr. Meyer responded to Ms. Rock Bailey's question regarding fire truck access on the site and stated that the proposed driveway could accommodate a fire truck and referred to the correspondence from the Montclair Water Bureau, dated February 3, 2004 regarding fire hydrant installations.

Mr. Hughes cross-examined Mr. Meyer.

Chair Harrison called for questions from the public for Mr. Meyer.

Dickson Lane, owner of 11 North Mountain Avenue, inquired about the request for a rear yard setback variance, the rear egress from Unit A, and garbage collection on the site.

Susan Bershad, owner of 28 South Mountain Avenue and resident of 2 Stonebridge Road, asked if the proposed driveway would be considered a new street, how many rooms and bedrooms are contained within the existing dwelling, and if the existing dwelling contained 3 full stories plus a basement and attic.

Noel Brogan, 88 South Mountain Avenue, asked how the site drainage would be addressed and whether the proposed units would be rentals or condominiums.

Edward Rosen, 41 South Mountain Avenue, inquired about the height of the proposed arborvitae at the time of planting, the height of the pole-mounted light fixtures, and the types of signage that would be added on and around the site.

Tamara Brogan, 88 South Mountain Avenue, asked if Mr., Meyer could answer traffic related questions.

Eva LaRue, 222 Upper Mountain Avenue, asked how snow removal would be accomplished on the site and where the snow would be piled.

Michael Strahan, 99 Lloyd Road, also asked about snow removal and placement and inquired about the number of parking spaces provided for Unit C.

David Bershad, 28 South Mountain Avenue, asked if the applicant could guarantee that snow would be removed from the site instead of piled on the site.

Chair Harrison called for a short recess.

The Board reconvened.

Mr. Hughes requested that the applicant provide an elevation drawing of Unit A.

Mr. Owen called William Brown, who was sworn as stated his qualifications as a Licensed Architect in the State of New Jersey.

Mr. Hughes questioned Mr. Brown.

Mr. Brown stated that he does not have an architectural drawing of Unit A. He stated that at this time he could provide the Board with a schematic diagram that illustrates the height of Unit A in terms of stories.

Marked into evidence was:

A-11 Diagram illustrating the height of Unit A, prepared by William G. Brown Architects

Mr. Brown stated that Unit A is 3½ stories in height and that the attic level is a half-story as defined by the zoning ordinance. He described the style of architecture proposed for the new construction and stated that the proposed addition to Unit A was proposed due to zoning requirements. He also described the floor plans for the building containing Units A, B, and C and stated that no living area is provided in the basement areas.

The Board questioned Mr. Brown.

Mr. Brown stated that attached garages were proposed as an amenity and to be linked to the floor plan in an efficient manner. He also described the interior layout of Unit A and stated that the proposed plans represent the best option architecturally for the development.

Mr. Hughes cross-examined Mr. Brown.

Chair Harrison called for questions from the public for Mr. Brown.

Jean Strahan, 99 Lloyd Road, asked what variances were required when the applicant was before the Planning Board.

Dickson Lane, 11 North Mountain Avenue, asked about the form of ownership for the proposed dwelling units.

Chair Harrison stated that the Board is precluded by law on ruling based on the form of ownership of the dwelling units.

Frank Gerard Godlewski, 10 Crestmont Road, asked if the applicant was aware of historic underground tunnels on the site and whether the building containing Units D, E, and F would block the view of the Hudson River from the Stagecoach House.

Richard Pollotti, 24 South Mountain Avenue, asked if Unit A could accommodate more than 1 dwelling unit and if the applicant is considering purchasing adjoining lots to enlarge the development in the future.

Susan Bershad, 28 South Mountain Avenue, asked Mr. Brown if he could explain the difference between a master bedroom, a bedroom, a family room, a study, and other types of rooms located in Unit A.

Noel Brogan, 88 South Mountain Avenue, inquired about the size of the subject property and the size of the dwelling units.

Eva LaRue, 222 Upper Mountain Avenue, asked how many variances are required aside from variances associated with the existing dwelling, how many dwelling units could be constructed on the site, and if Mr. Brown thought that the proposed development was appropriate for the area.

Mr. Hughes cross-examined Mr. Brown.

Chair Harrison announced that the application would be continued at a special meeting of the Board to be held on April 28, 2004 and that no further notice would be given.

On motion by Mr. Gallardo, seconded by Ms. Rock-Bailey, the meeting was adjourned.