

**MINUTES OF THE BOARD OF ADJUSTMENT
MARCH 29, 2006**

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

ABSENT: Mr. Flood, Mr. Haizel, Ms. Holloway, and Mr. Mellon, 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.

On motion by Mr. Fleischer, seconded by Mr. Whipple, the **Minutes of the February 1, 2006** special meeting were adopted as modified.

Chair Harrison called the continuation of the application of **American Bank of New Jersey, 120 Watchung Avenue**. He stated that there are 6 members of the Board present and that a 7th member of the Board may soon arrive. Bob Gaccione, Esq. appeared as attorney for the applicant. Mr. Gaccione stated that he would like to proceed and hold off on his summation and Board's discussion until there are 7 eligible members. Mr. Gaccione stated that his colleague, Robert Pansulla, Esq., was before Board at the previous hearing on the application and gave a brief summary of the proceedings regarding the application at a previous hearing.

Mr. Gaccione called Dennis Mylan, who was sworn and stated his qualifications as an Architect. Mr. Mylan described the existing site and stated that it contains a gasoline service station with an auto repair garage and that 95 percent of the existing property is covered in paving. He described the existing on-site signage associated with the gasoline station and stated that the property presently contains curb openings of 47 feet wide on Park Street and 46 feet wide on Watchung Avenue. He continued by describing the N-C Neighborhood Commercial Zone and the existing non-retail uses located in Watchung Plaza.

Marked into evidence were:

- A-1 Sheet SP-5, Landscape Plan, with color added, on a board
- A-2 Packet containing 10 photographs of the neighborhood
- A-3 Revised First Floor and Basement Floor Plans, on a board, dated March 29, 2006

Mr. Mylan described the proposed bank building and stated that the revised floor plan depicts a small elevator that has been added, which does not affect the proposed height or setbacks. He described the exterior of the proposed building and the proposed signage and continued by describing the proposed setbacks. He described the proposed parking area and the driveway ingress and egress and stated that the

plans has yet to be approved by the Essex County Planning Board, however, that he has met with a representative of the County regarding vehicular ingress and egress from site and has incorporated the recommendations produced as a result of that meeting. He continued by describing the proposed site lighting, signage, and the requested variances and addressed the Board Engineer's comments on the plan.

The Board questioned Mr. Mylan. Mr. Mylan stated that he did an evaluation of a conforming plan that would have included at least 50 percent of the proposed floor area dedicated to another use, such as a retail use or a restaurant and that the main limitation for a plan that is a conforming use is the on-site parking requirement, which would not be possible to achieve with an additional use on the site. Mr. Mylan further described the proposed back-lit logo sign and an alternative design for the logo sign.

Marked into evidence was:

A-4 Specifications for the type of illumination proposed for the logo sign

A-5 Alternative sign design

Chair Harrison called for questions from the public.

Phoebe Pollinger, 179 Watchung Avenue, asked how tall the pole-mounted light fixtures would be from the ground and whether they would be placed on timers. She also inquired about the percent of the lot that would be impervious cover. Mr. Mylan stated that impervious coverage of the site would be a little less than 80 percent.

Mr. Gaccione called Joseph Jaworski, who was sworn and stated his qualifications as a Professional Engineer, with expertise in civil and traffic engineering. Mr. Jaworski stated that he conducted a traffic and parking analysis for the site and the proposed bank. He stated that he performed a traffic count during the evening peak hours between 4 p.m. and 6 p.m. and the weekend peak hours between 11 a.m. and 2 p.m. and stated that the proposed use would generate less vehicular traffic than the existing gas station. He also described the characteristics of the streets parking and municipal parking lots in the area and stated that due to the light volume generated by the proposed use, the 7 on site parking spaces proposed would be adequate. He further stated that the proposed ingress and egress is a significant safety improvement from the existing site, which has uncontrolled ingress and egress.

The Board questioned Mr. Jaworski.

Chair Harrison called for questions from the public.

Roy Morchian, 251 Park Street, asked for the dates the traffic counts were performed. Mr. Jaworski stated that the evening count was conducted on February 1, 2006 and the weekend count was conducted on February 11, 2006.

Mr. Gaccione questioned Mr. Jaworski. Mr. Jaworski stated that the site lines for vehicles exiting the site have been thoroughly examined and that it is expected that the exits on both Watchung Avenue and Park Street would be used equally.

Chair Harrison called for a short recess.

Mr. Gaccione called Peter Steck, who was sworn and stated his qualifications as a Professional Planner. Mr. Steck described the application, the subject property, and the variances requested. Mr. Steck stated that the proposed use is not an outright prohibited use, although it requires a use variance for not providing a retail or restaurant use on the site. He stated that the existing gas station is a highly inappropriate use in the N-C Zone, as it is an anti-pedestrian use. He also stated that the existing gas station is a thriving business and the site could likely remain a gas station since the subject property would be difficult to develop, while the applicant is willing to undertake that redevelopment. He stated that a drive-through bank is not prohibited and that the proposed drive-through is located at a location on the site that would not impede pedestrian flow. He further stated that the proposed design of the building would provide aesthetic benefits and that the plan would provide improved traffic safety. He stated that the purposes of Municipal Land Use Law are advanced by the application and that the special reasons and negative criteria are satisfied by the incremental improvements provided by the proposed plan.

The Board questioned Mr. Steck.

Chair Harrison stated that the application would be continued for additional public comment, Mr. Gaccione closing statements, and the Board's discussion, at the April 19, 2006 regular meeting of the Board, and that no further notice would be given. Mr. Gaccione granted an extension of time.

Chair Harrison called for public comment from anyone present who would not be present on April 19, 2006.

Margot Schwaab Sage-EI, Merchants Association, was sworn and stated her support for the application.

The Board questioned Ms. Schwaab Sage-EI.

Chair Harrison called the variance application of **John Gerecs, 128-130 North Fullerton Avenue**. Calvin Trevenen, Esq. appeared as attorney for the applicant and described the application. Mr. Trevenen called John Gerecs, who was sworn.

Marked into evidence were:

A-1 Four (4) photographs of the exterior of previously existing dwelling

A-2 Five (5) photographs of the interior of the previously existing dwelling

A-3 Letter dated December 13, 2005, to John Collins, Architect, from McAuliffe Contractors, Structural Specialists

Mr. Gerecs stated that he took the photographs in Exhibit A-1 and A-2 about 3 months ago and that when he purchased the property in October of 2005, he only anticipated that the interior of the house would be gutted and rebuilt and that the exterior would be remodeled. He stated he shortly thereafter discovered structural damage to the extent that it was dangerous to be inside of the house and that demolition of the house was recommended by a structural engineering consultant. He stated that, according to information from Montclair Tax Assessor the previously existing dwelling was built in 1892. Mr. Gerecs read the letter marked as Exhibit A-3 into the record, which stated that the dwelling that was on the lot needed to be demolished.

The Board questioned Mr. Gerecs.

Chair Harrison called for questions from the public. None were offered.

Mr. Trevenen called John Collins, who was sworn and stated his qualifications as an Architect. Mr. Collins described the plans for the proposed two-family dwelling. He stated that the proposed building footprint measures 32 feet in width, which represents a 2-foot reduction from what existed previously, and that length of the footprint would be the same as the previously existing dwelling. He stated that the second and third floor of the proposed dwelling would be enlarged from what previously existed by extending those floors over the first floor towards the rear. He also stated that a detached 2-car garage would be added whereas one did not previously exist.

Mr. Collins stated that each proposed dwelling unit has 4 bedrooms and 4 full bathrooms. He stated that he had measured the previously existing building prior to its demolition and determined that the height of the previous dwelling was 38 feet to the ridge and that the same overall height proposed. He further stated that the design and scale of the proposed dwelling is similar to what existed on the site and what exists in the neighborhood. He also stated that the proposed detached 2-car garage complies with all zoning requirements and is setback far enough from Walnut Place to allow parking in front of the garage that would not be forward of the proposed dwelling. He also stated that a fifth parking space could easily be added to the rear yard if the Board requires it.

The Board questioned Mr. Collins. Mr. Collins stated that the proposed front setback on North Fullerton, as measured to the front porch and front wall, as well as the rear yard setback would be the same as the previously existing dwelling. He also stated that the front yard setback on Walnut Place and the side yard setback would each be increased by 1 foot. He stated that outdoor central air conditioners would be located in rear yard between the rear stairways. He further stated that the rearmost curb opening on Walnut Place would be widened to accommodate the new driveway, and the other 2 curb openings around the property would be removed and replaced with new curbing.

Mr. Trevenen called Peter Steck, who was sworn and stated his qualifications as a Professional Planner. Mr. Steck described the application, the subject property, and the variances requested. He stated that the previous home had a habitable third floor with dormers, as do most homes in the neighborhood and that the proposed dwelling with third floor dormers is in keeping with both. He also stated that the lot frontage width variance is a minor deviation and that the limited space on the side yard of the adjoining property to north prevents the applicant from obtaining more land. He stated that the plan is for a permitted use and that the footprint of the proposed dwelling is not larger than the previous dwelling. He stated that the increase in total floor area and the need for third floor dormers results from the need for modernization and creating safer, more comfortable dwelling units that can accommodate family living, which would provide sufficient special reasons to grant the "d" variance required for the third floor created by the proposed dormers. He continued by stating the both front yard setbacks match or exceed those of the previous dwelling and that the side yard and rear yard setbacks comply.

The Board questioned Mr. Steck.

Chair Harrison called for questions and comments from the public. None were offered.

The Board discussed the application. On motion by Mr. Fleischer, seconded by Mr. Susswein, the application was approved, subject to the following conditions:

1. The proposed detached garage shall not exceed 15 feet in height as measured to the ridge on the roof.
2. A landscaped screen shall be added to the westerly setback of the parking area located on the driveway.
3. Should a fifth parking space be added to the property, it shall be located to the east of the proposed driveway and comply with all zoning requirements.
4. Except for the driveway leading to the garage, all curb openings and driveways shall be removed and a permit for such work obtained from the Engineering Department.
5. The location of any outdoor central air conditioning units shall comply with all zoning requirements.
6. The applicant shall pay any required development fees to the Montclair Housing Trust Fund in accordance with Montclair Code Section 202-39 et seq.

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