

MINUTES OF THE BOARD OF ADJUSTMENT
May 26, 2004

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

ABSENT: Ms. Cockey and Ms. Rock-Bailey

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 continuation of the site plan and variance application of **Montclair Homes, LLC, 8 South Mountain Avenue**. 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.

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 and his firm have prepared the engineering plans and drainage report submitted for the application.

Marked into evidence were:

A-9 Engineering Plans, on 8 sheets, prepared by PPE, revised to April 5, 2004

A-10 Drainage Report, prepared by PPE, revised to April 2, 2004

Mr. Meyer described the drainage improvements and the water supply proposed for the site and stated that the drainage system has been designed in accordance with the New Jersey Residential Site Improvement Standards. He referred to Exhibit A-3, which is the site plan submitted at the Board of Adjustment special meeting held on April 28, 2004, and described the proposed changes in the landscaping that would improve the visibility at the driveway entrance. He stated that the proposed landscaping used to buffer the parking areas would remain as proposed and would consist of arborvitae and rhododendron.

Marked into evidence were:

A-11 Planning Department Memorandum, dated April 20, 2004

A-12 Board Engineer's letter, dated April 29, 2004

A-13 Essex County Planning Board letter, dated April 27, 2004

Mr. Meyer stated that all of the proposed retaining walls on the site would be a maximum of 4.5 feet in height and described the parking area setbacks. He also stated that the new driveway would not exceed a 10 percent grade and that each surface parking space would not exceed a 6 percent grade. He continued by stating that no new fencing is proposed for the site and that each dwelling unit will have a designated area for refuse and recycling storage. He further stated that all of the comments and recommendations of the Board Engineer's letter, dated April 27, 2004 would be complied with and that the applicant has received Essex County Planning Board approval for the development as currently proposed. Mr. Meyer continued by describing the revisions to the site plan and referred to the site plans previously submitted by the applicant to the Board.

Marked into evidence were:

A-14 Site Plan, Sheet 4 of 8, prepared by PPE, dated August 4, 2003

A-15 Site Plan, Sheet 4 of 8, prepared by PPE, revised to January 22, 2004

Mr. Hughes objected to the witness referring to plans from previous submissions which have been abandoned.

Mr. Owen stated that the plans being referred to by the witness are not part of the prerogative writ action involving the applicant's application to the Planning Board. He stated that the plans being referenced in Exhibits A-14 and A-15 are relevant for comparative reasons to indicate the revisions to the plans during the course of time that the applicant has been before the Board of Adjustment.

Chair Harrison stated that the record should show that the site plan marked as Exhibit A-14 was presented to the Board of Adjustment at the December 10, 2003 regular meeting and that the site plan marked as Exhibit A-15 was presented to the Board of Adjustment at the March 10, 2004 special meeting. He also stated that these site plans may be marked as exhibits to substantiate the testimony that the plans have been changed and to provide a record of the revisions to the plans.

Mr. Owen proceeded and questioned Mr. Meyer. Mr. Meyer stated that he has met with Chief McLaughlin of the Montclair Fire Department and that it was requested by Chief McLaughlin that the fire hydrant that was previously proposed on the site be included on the current plans. Mr. Meyer also stated that the driveway opening at the street would be widened to allow for better fire engine access. He continued by stating that the applicant approached the Montclair Art Museum about leasing parking spaces in the Museum parking lot for guests of the residents of the proposed development. Mr. Owen presented a form and stated that is not a signed contract between the applicant and the Montclair Art Museum. He stated that it is an example of a form of contract that the Montclair Art Museum utilizes in such agreements and attempted to mark it as Exhibit A-16.

Mr. Hughes objected to the marking of the form of contract as Exhibit A-16.

Chair Harrison stated that the form of contract is not acceptable as an exhibit because it does not indicate an agreement between the applicant and the Montclair Art Museum. Mr. Trembulak stated that the form of contract may be marked for identification only.

Marked for identification was:

A-16 Form of contract utilized by the Montclair Art Museum for parking lot rental

Marked into evidence was:

A-17 Turning Radius Plan, on 1 sheet, prepared by PPE, dated April 5, 2004

Mr. Meyer described Exhibit A-17 and stated that it details the turning radius capacity of the proposed driveway and that a fire engine would be able to turn into the driveway.

The Board questioned Mr. Meyer.

Mr. Meyer stated that the proposed thinning of the landscaping to increase visibility at the front of the driveway would not decrease the effectiveness of the visual screening of the off-street parking provided by on-site landscaping. Mr. Meyer described the locations of the on-site catch basins and described the trench drain at the bottom of the driveway. He stated that all on-site drainage would be connected to an underground drainage system and that an emergency overflow drainage system is provided in the case that its capacity is exceeded.

Mr. Hughes cross-examined Mr. Meyer.

Mr. Meyer stated that approximately 45 trees exist on the site and that approximately 9 trees would be removed for the proposed development. He also stated that the proposed development would produce less stormwater runoff than existing site because of the proposed drainage improvements.

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

Frank Gerard Godlewski, 10 Crestmont Road, asked how snow would be removed from the site and how snow removal from the site could be enforced.

Mr. Meyer stated that the site would have designated areas for piling snow and that snow would be removed from the site if a storm were to exceed 12 inches. He also stated that the driveway grade meets the ordinance requirements and that the proposed drainage improvements catch the water produced by melting snow.

Marked into evidence was:

A-18 Snow Stock Pile Areas, on 1 sheet, prepared by PPE, dated April 5, 2004

Emily Rodine-McGrath, 70 South Fullerton Avenue, asked how a fire engine would exit the site and how safe it would be if it had to back out of the driveway.

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

Marked into evidence was:

A-19 Architectural plans, on 16 sheets, prepared by William G. Brown, Architects, dated April 5, 2004

Mr. Brown described the floor plans for the existing dwelling and the proposed dwelling units. He also described the elevations of the existing dwelling and the proposed dwelling units and stated that the architectural details of the existing dwelling would be preserved and that the proposed dwelling units would complement the existing dwelling. He referred to Exhibit A-3, Site Plan, and described the layout of the dwellings and stated that the architectural plans and the site plans correspond with each other.

Marked into evidence was:

A-20 Rendering of proposed development, prepared by William G. Brown, Architects, undated

Mr. Brown described Exhibit A-20 and stated that it illustrates the style and scale of the proposed development.

The Board questioned Mr. Brown.

Mr. Brown stated that the site plan and the rendering depict the exterior stairs for Unit E that lead to the main driveway.

Mr. Hughes cross-examined Mr. Brown.

Mr. Brown stated that the garage space designated for Unit A is located under living space for Unit B and is located next to the garage space designated for Unit B.

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

Adrianna O'Toole, 48 South Willow Street, asked if the off-street parking requirement for the proposed development is being complied with for the proposed development.

The Board questioned Mr. Brown.

Mr. Brown stated that the garage attached to Unit B was revised to match the site plan. He stated that the Foundation Plan, First Floor Plan, and Second Floor Plan for Units B and C, which are included in Exhibit A-19, should be replaced by these revised plans.

Marked into evidence were:

- A-21 Foundation Plan for Units B and C, prepared by William G. Brown, Architects, revised to April 25, 2004
- A-22 First Floor Plan for Units B and C, prepared by William G. Brown, Architects, revised to April 25, 2004
- A-23 Second Floor Plan for Units B and C, prepared by William G. Brown, Architects, revised to April 25, 2004

Chair Harrison called for a short recess.

Chair Harrison stated that there had been a recording malfunction for a period of time at the start of the hearing. Assistant Secretary Charreun stated that the tape recorder began recording properly at the point in time when Exhibit A-17 was marked and that Mr. Meyer's direct testimony, as well as the Board's questions of Mr. Meyer, are not recorded. Chair Harrison stated that the portion of the meeting that was not recorded shall be placed on the record at this time.

Mr. Owen proceeded to recall Mr. Meyer, and the direct testimony of Mr. Meyer and the Board's questions of Mr. Meyer were placed on the audiotape record. The meeting then proceeded.

Mr. Owen called Harold Maltz, Professional Engineer, who was still under oath. Mr. Maltz stated that an additional gap study was performed for the morning peak period on Wednesday, May 19, 2004, from 7:30 A.M. to 10:30 A.M., while the Montclair Kimberly Academy and Montclair Public Schools were open. He stated that it was a continuous 3-hour gap study and was extended to 10:30 A.M. in order to include what was indicated by a member of the public as a higher level of activity from 10:00 A.M. to 10:30 A.M. at the Montclair Art Museum. He continued by describing the additional vehicle gap study performed for the site and stated that the number of vehicle gaps of 7.1 seconds or greater for the two-way traffic flow on South Mountain Avenue between 7:30 A.M. and 8:30 A.M. was 62 gaps. He further stated that between 8:30 A.M. and 9:30 A.M. there were 62 gaps of 7.1 seconds or more and that between 9:30 A.M. and 10:30 A.M. there were 141 gaps of 7.1 seconds or more. He stated that traffic had dropped significantly during the third hour of the gap study because it was after the A.M. peak period.

Mr. Maltz stated that the number of vehicle gaps of 7.1 seconds or more observed during the May 19, 2004 study indicates that for each of the 3 hours studied, the capacity for vehicles turning left out of the driveway is 113 vehicles during the first

hour, 112 vehicles during the second hour, and 368 vehicles during the third hour. He stated that all of the findings of his studies indicate that the vehicle trips generated by the proposed development would be more than adequately served by existing traffic conditions. He also stated that he had investigated Montclair Police Department records and that there have not been any motor vehicle accidents on South Mountain Avenue in front of the subject property for the period from January 1, 2002 to present.

The Board questioned Mr. Maltz.

Mr. Maltz stated that the Police Department identifies motor vehicle accidents by street address and that he had researched only the subject property's address for recent vehicular accidents.

Mr. Hughes cross-examined Mr. Maltz.

Mr. Maltz stated that he applied the single-family co-efficient to the trip generation for the site, which is the highest number available. He also stated that the proposed development represents a nominal increase in the trip generation from the existing conditions of the site.

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

Dickson Lane, 11 North Mountain Avenue, asked if the 7.1 second vehicle gap takes into account the length of a vehicle and asked for clarification on the 3.5 second follow up time. He asked if a new P.M. peak hour study was performed and whether a report of the findings has been completed.

Mark Kent, 99 Lloyd Road, asked if the number of trips generated by the proposed development would be different if the proposed dwellings are classified as either single-family and two-family dwellings or townhomes.

Frank Gerard Godlewski, 10 Crestmont Road, asked Mr. Maltz if he was aware that on the date of the May 19, 2004 A.M. study, the Police Department had been doing an investigation at the apartments next door that may have affected traffic patterns. He also asked how many people have been living in the existing dwelling on the subject property since 2002 and what vehicular ingress and egress on the site has been like over that time period.

Rich Pollotti, 24 South Mountain Avenue, asked whether the traffic studies were done while standing and whether that would affect the effectiveness of the perceived visibility of vehicles travelling on South Mountain Avenue.

Steven Aspero, 361 Claremont Avenue, asked questions regarding the inquiry into accident history in front of the site that was done by the witness. He also asked questions regarding trip generation rates for different classifications of housing units and higher residential densities than the proposed development.

Mr. Owen requested to mark an additional item as an exhibit.

Marked into evidence was:

A-24 Application Form to the Zoning Board of Adjustment, dated April 6, 2004, with a cover letter from the David Owen, Esq., also dated April 6, 2004

Mr. Owen moved A-1 through A-15 and A-17 through A-24 into evidence. He recognized that Exhibit A-16 was not accepted as an exhibit and was marked for identification only.

Mr. Hughes reiterated his objection to Exhibits A-14 and A-15.

Chair Harrison announced that the application would be continued at the July 21, 2004 regular meeting of the Board and that no further notice would be given.

Chair Harrison called for public comment from those present tonight that would not be present on July 21, 2004.

Tom Mueller, 96 Undercliff Road, was sworn and stated his support for the application. He stated that the plan preserves a historic home, provides a complimentary development, and is below the density permitted.

Priya Ghorpade, 11 Mulford Lane, stated her support for the application.

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