

**MINUTES OF THE BOARD OF ADJUSTMENT
JUNE 14, 2006**

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

ABSENT: Ms. English, 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.

Chair Harrison called the application of **Wallwood Gardens, Inc., 400 Orange Road**. Chair Harrison stated that five Board members are present and that a sixth member may arrive by 8:30 p.m. Robert Taylor, Esq., appeared as attorney for the applicant and stated that they would proceed and carry the vote until there are seven eligible members to vote on the application. Mr. Taylor described the application and called Rocco Orlando, who was sworn and stated his qualifications as an Architect.

Mr. Orlando described the proposal and stated that the plan has been revised from the previously denied application to include a total of 10 dwelling units within 4 buildings on the site. He stated that the 10 proposed dwelling units would be arranged as townhomes and that 2 buildings would contain 3 units and 2 buildings would contain 2 units. He continued by describing the plan in detail.

Marked into evidence were:

A-1 Rendered Site Plan/Landscape Plan, on a board, revised to March 13, 2006

A-2 Rendered Floor Plan, on a board, revised to March 13, 2006

Mr. Orlando described the plan and stated that 8 of the 10 units are 18 feet wide and 2 units are 19 feet 4 inches wide. He described the floor plans and stated that each unit would contain 3 bedrooms and 2 bathrooms each and that each unit would have its own area for trash cans under the partially covered driveway which is screened from view. Mr. Orlando described the parking and driveways and stated that a 24-foot wide two-way driveway is proposed from Orange Road which would also act as the access aisle for the parking spaces and that an egress only driveway is proposed that would exit onto Pleasant Way. He described the proposed setbacks and stated that the proposed Pleasant Way front yard setback ranges from 14 feet to 23 feet, that the Orange Road front yard setback would measure 25 feet, and that the Ward Place front yard setback ranges from 15 feet to 17 feet. He also stated that the proposed rear yard setback would range from 17 feet to 18 feet.

Marked into evidence was:

- A-3 Rendered Site Plan, on board, that was approved by the Board in 1996 for the existing garden center, dated September 6, 1996
- A-4 Rendered Elevations, on a board, revised to March 13, 2006

Mr. Orlando described the setbacks of the existing garden center building and stated that although it has an Orange Road front yard setback of 49 feet, the front yard parking on the property is within 5 feet of front property lines. He also stated that the existing rear yard setback is 19 feet. He continued by describing the setbacks proposed with the previously denied application and stated that the front yard setbacks have been improved with the current proposal. He also described the height of the proposed structures and stated that the 34-foot height complies with the R-1 Zone requirements and also described the proposed materials on the façade.

Mr. Orlando described the proposed on-site parking and stated that a total of 24 spaces are proposed. He stated that each dwelling unit would have 2 spaces and that 4 visitor spaces are proposed. He stated that 9 of the 10 units would have a one-car garage, which would be recessed at the rear wall of the unit, and that a second space for these units would be located on the partially covered driveway. He also stated that 1 of the units would have no garage and would have 2 surface parking spaces. He continued by describing the proposed site lighting and stated that the illumination of the covered driveway would shine directly down and that the proposed bollard light fixtures along the driveway would be shielded. He also described the proposed landscaping on the site and stated a landscape buffer is proposed along the rear property line.

The Board questioned Mr. Orlando.

Chair Harrison called for questions from the public.

Ethel Booker, 24 Ward Place, asked how the number of bedrooms proposed differs from the previously denied application.

Sybil Smith-Darlington, 67 Pleasant Way, asked for comparison of bedroom numbers between the current and previously denied application. She also asked for a clarification on where trash areas are for each unit.

William Scott, 23 Cedar Avenue, asked Mr. Orlando if he had reviewed the 2006 Master Plan Re-examination Report in terms of development in the R-1 Zone. He also asked Mr. Orlando to identify the existing dwellings in the neighborhood that are similar in design to the proposed development.

Janet Hubert-Kraft, 5 Ward Place, asked Mr. Orlando if he has ever designed any existing buildings in Montclair. She also asked where the central air conditioning units would be located and how snow removal would be accomplished. She also questioned whether notice was done correctly.

Ms. John and Chair Harrison stated that the applicant has submitted the proper legal documentation that met the notice requirements of the New Jersey Municipal Land Use Law.

Janis Zadel, 79 Pleasant Way, asked how garbage collection would be accomplished.

Tracy Phalon, 185 Willowdale Avenue, asked if a drawing has been made that shows the scale of the proposed development in comparison to the buildings in the neighborhood.

James Dargan, 391 Orange Road, questioned whether notice was done correctly and asked about the process.

Chair Harrison called for a short recess.

Mr. Taylor called Ruth Wallestad, one of the two owners of the subject property, who was sworn. Ms. Wallestad described the options and considerations that had been discussed for the development of the site. She stated that the proposed design takes into consideration the concerns of the neighborhood and that residential development of the site would benefit the neighborhood by eliminating certain aspects of the nonconforming commercial use that have a negative impact on the neighborhood. She stated that when considering the economic realities in developing the site, the number of units proposed is the lowest number of units that can be developed. She continued by stating that the property has also been on the market and that no interest has been shown by prospective purchasers in developing a certain number of detached single-family dwellings. She also stated that, as owners, they are willing to comply with the recently adopted ordinances involving affordable housing units.

The Board questioned Ms. Wallestad.

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

Mr. Taylor called Megan Hunscher, who was sworn and stated her qualifications as a Professional Planner. Ms. Hunscher described the application and the variances requested. She stated that six variances are requested, including 3 "d" variances and 3 "c" variances. She stated that the proposed setbacks have been improved from the previously denied application and that the impacts of the proposed yard encroachments have been mitigated greatly in comparison to previously denied application. She also stated that the proofs submitted for the previous application still stand and are strengthened in the current proposal by the reduction in yard encroachments and the reduced level of intensity. She stated that the requested "c" variances are closely associated with the proposed use and structure type and can be granted without substantial detriment to the public good and that the benefits of the deviations outweigh any detriments.

Ms. Hunscher described the requested "d" variances and stated that the property is unique. She stated that in the Board's approval of the garden center in 1996, it was determined that the property is unlikely to be developed with a conforming use. She 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. She also stated that the variance requested for exceeding 2½ stories is acceptable because the architecture of the proposed development is consistent with neighborhood. She further stated that the proposed use promotes the general welfare by providing new housing. She also stated 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. She 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 Ms. Hunscher.

Chair Harrison called for questions from the public.

Ethel Booker, 24 Ward Place, asked how the larger of the proposed structures containing 3 units are in keeping with the existing dwellings in the neighborhood. She also asked whether the size of the proposed structures was considered when determining appropriate setbacks.

Sybil Smith-Darlington, 67 Pleasant Way, asked how the proposed development compares to the existing neighborhood in terms of the size of the structures and setbacks.

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

Chair Harrison stated that the application would be continued at a special meeting to be held on Wednesday, July 26, 2006, at 8:00 p.m., and that no further notice would be given.

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