



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT October 19, 2016

ORDER: The meeting was called to order at 7:40 p.m. by Graham Petto. Mr. Petto read the notice of compliance with the New Jersey Open Public Meetings Act and indicated that appropriate notice was forwarded to the officially designated newspaper of Montclair and posted in the Municipal Building. The schedule of meetings is also posted on the Township website.

ROLL CALL: Mr. Petto called the roll. Present were Mr. Harrison, Ms. Baggs, Mr. Reynolds, Mr. LaVail, Mr. Moore, Mr. Allen, Mr. Sullivan, and Mr. Petto. Mr. Fleischer and Ms. Chowaneic were excused.

APPROVAL OF MINUTES:

Mr. Harrison introduced the minutes of the September 21, 2016 Board meeting. He noted a few edits to the minutes as presented. Mr. LaVail also noted an edit. A motion was made by Ms. Baggs, seconded by Mr. Reynolds to approve the minutes as amended. The minutes were approved unanimously with Mr. Reynolds abstaining.

OLD BUSINESS:

App. 2465: Richard Stanton & June Raegner. 49 North Mountain Avenue. Use variance and site plan for professional office use in R-3 zone district.

Chair Harrison introduced the application. Present on behalf of the applicant was attorney Cal Trevenen.

Mr. Sullivan noted to Mr. Trevenen that only 6 Board members were in attendance and the application included a "d" variance which would require 5 affirmative votes. Mr. Trevenen accepted Mr. Sullivan's remarks and stated that the applicant would proceed with testimony and determine whether to proceed to a vote following the proceedings.

Mr. Trevenen summarized the previous appearance by the applicant before the Board. He noted that the comments received by the applicant from the Board have led to revised plans, which have been submitted to the Board.

Mr. Trevenen noted that a parking variance was previously granted for the adjacent lot 22.01. He also noted that the original site plan approval indicated that 24 spaces would be on the site whereas only 22 are extant.

Mr. Trevenen noted that as the application included the parking agreement between the two properties, new notice was provided for both properties.

Mr. Trevenen noted that during the August 17 hearing before the Board, the two previous resolutions for the property and the easement agreement for parking between the properties were entered as exhibits.

Mr. Trevenen noted that the applicants are contract purchasers of the property and are currently residing in the property as tenants of the current owner. He noted that the property presents a live-work opportunity for the applicant.

Mr. Trevenen then called Mr. Craig Villa, engineer for the applicant.

Mr. Villa reviewed the revised site plans for the Board. He noted the following modifications to the previous plans:

- The visual impact of the parking has been reduced in the revised plans as the parking has been reconfigured. The spaces are now perpendicular to the residential dwelling on the property.
- The parking area/driveway setback has been reduced to accommodate the reconfigured parking.
- The existing six foot stockade fence is to be maintained.
- The revised plans will require a variance for parking aisle width and parking area setback from the dwelling.
- Landscape improvements have been made along the first parking space nearest North Mountain Avenue to limit visibility of the parking area.
- The driveway width has been reduced from the required, consistent with the Planning Department review.
- Two trees on-site are proposed to be removed; one cedar tree near the house and a street tree to accommodate the new driveway opening.

Mr. Trevenen then reviewed the memo from the Historic Preservation Commission to the Board of Adjustment. He noted that the HPC has requested that the street tree be replaced on the subject property and that the parking area be screened from North Mountain Avenue.

Mr. Trevenen also reviewed the Planning memo and noted the consideration regarding garbage and recycling. He noted that the proposed use of the property will generate little volume of refuse and that the existing garbage and recycling facilities are adequate for the property.

Mr. Trevenen reviewed the memo prepared by Board Engineer Mr. Tom Watkinson to the Board. He noted the applicant would comply with the proposed conditions.

Questions from the Board were then accepted.

Mr. LaVail asked what the difference in square footage of hardscaping was under the original plan and the revised plan now before the Board. Mr. Villa noted that the area was on Sheet 4 of the plans, which shows about 1,700 sq. ft. of hardscaping, a slight increase over the original plan.

Mr. Harrison asked about the stockade fence and noted that it is presently located inward from the property line. Mr. Villa stated that the fence would be relocated to the property line.

Mr. Harrison asked about the parking configuration for the condo complex to the rear. He asked if one of the 22 spaces was in fact located on the lot of the subject property. Mr. Villa replied yes.

Questions from the public were then accepted.

Mr. Dean Semer, an attorney representing the residents of the condo association asked about the slope of the property and where runoff would drain. He asked if under the plan there would be an increase of runoff to adjacent properties. Mr. Villa replied no and noted the location of drains on the plans which will direct runoff to the proposed drywell.

Barbara Lawn, owner of the multi-family property at 39 North Mountain Avenue, asked if the proposed setback of the driveway and parking area was to be reduced from 3 feet to 2 feet. Mr. Villa replied yes.

Ms. Lawn asked if the fence would be the only element in the buffer area between the driveway/parking area and the property line. Mr. Villa replied yes. Ms. Lawn asked if there would be any other landscaping. Mr. Villa replied no, stating there was insufficient space.

Ms. Lawn presented photos of the site. She indicated that the photos illustrate the fence is in a state of disrepair. She noted that cars are visible through the current fence. She also noted that the proposed 2 foot setback area was insufficient to store snow during the winter and that piling snow against the fence would further damage it. Ms. Lawn stated that the amount of asphalt proposed is detrimental to the property and asked if the driveway could be used to accommodate 2 of the parking spaces on-site.

Mr. Villa stated that snow would be pushed to the rear of the property, parallel to the fence. He stated that the fence would be repaired and replaced in sections, where needed.

Ms. Lawn noted that her tenants do make use of the side yard adjacent to the subject property and that screening should be addressed to mitigate any negative impacts.

Mr. Harrison recommended the proposed landscape screen along the parking area be moved forward a few feet to allow for snow to be piled in this area when pushed to the front.

Mr. Trevenen then called Roger DiNiscia, planner for the applicant.

Mr. DiNiscia reviewed the application and the plans. He introduced Exhibit A-4, a two-sided board with photographs of the site.

Mr. DiNiscia noted that the subject property was previously occupied by two separate parties, a private dental practice and a residential tenant. He noted that the interior of the building is in need of updates.

Mr. DiNiscia reviewed the history of the site. He noted that in 1986 the property received approval from the Township to construct 9 townhouses. Subsequently the property was subdivided in 1992. Mr. DiNiscia noted as part of this approval, a parking agreement was signed between the two newly created lots for the shared parking area.

Mr. DiNiscia noted that the applicant proposes to occupy the first floor as a real estate office and the second and third floors as a residence. He noted that this would be an owner-occupied situation.

Mr. DiNiscia noted that the proposed 3 new parking spaces would create a total of 25 spaces on-site.

Mr. DiNiscia noted that the previous dental office on the subject property had a total of 4 employees, whereas the proposed real estate office would have 2 employees in addition to the 2 owners who would reside on-site in a live-work arrangement.

Mr. DiNiscia noted that the real estate office would be open Monday through Friday from 9am to 5pm and Saturday and Sunday from 8am to 3pm.

Mr. DiNiscia reviewed his notes from a parking survey he conducted, noting that on-site parking was available on the properties.

Mr. DiNiscia summarized his remarks and noted that the proposed use is not a substantial change of use from the Board of Adjustment findings in 1992. He also noted there would be no detrimental impact to the zone plan.

Questions from the Board were then accepted.

Ms. Baggs asked when the previous dental practice stopped practicing at the subject property. Ms. Raegner noted that the office owned by Dr. Davis had closed 15 years ago. However, she noted that other dentists have occupied the space over the past 15 years. She did note that the office has been empty for the past year.

Mr. Harrison asked what the basis was for the sign variance. Mr. DiNiscia stated that the sign would serve to identify the site. He noted that the dentist previously maintained a sign on the front lawn to identify the business. Mr. DiNiscia referred to Exhibit A-5, a rendering of the proposed sign which would replace the previous sign.

Mr. Harrison stated that the testimony provided has indicated that the proposed use is different from the previous dental office and will have fewer visitors. He asked why a sign would be needed by the applicant if fewer visitors would be coming to the proposed real estate office than previously. Mr. DiNiscia stated that the sign would also serve as an address sign for the property. He stated that the sign is needed and that the benefits outweigh the detriments.

Mr. Harrison asked about the parking requirements for the existing dental office and the proposed real estate office. Mr. DiNiscia stated that the required parking for this site as a medical office is 9 spaces and as a professional office is 6 spaces.

Mr. Harrison noted that there are supposed to be 24 spaces on the site presently however only 22 currently exist. He noted that the application proposes 3 new spaces and that 8 spaces of the existing 22 are to be available for the proposed uses. Mr. Harrison noted that the parking demand will be reduced as a real estate office yet the applicant seeks to retain the 8 spaces in the parking area.

Mr. DiNiscia stated that there is no clear apportionment of the parking spaces currently. He stated that the parking could be better utilized.

Mr. Harrison asked if spaces are marked "Visitor" or with a unit number in the parking area. Mr. DiNiscia replied yes.

Mr. Harrison asked how many spaces are required by the 9 townhouses under the RSIS. Mr. DiNiscia stated that 29 spaces are required presently under the RSIS, and that 31 spaces were required under the previous Township approval.

Questions from the public were then accepted.

Mr. Dean Semer, attorney for the condo association, stated that he has reviewed the governing documents for the condo association and the site plan within the documents does list the assigned parking spaces. Mr. DiNiscia clarified his comments and noted that during his testimony his reference to "open" spaces meant "unoccupied" spaces.

Mr. Semer asked how Mr. DiNiscia determined whether spaces were available during his parking survey. Mr. DiNiscia replied that a space was considered available if it was unoccupied.

Ms. Barbara Lawn asked if the maximum number of employees at the real estate office would be 4. Mr. DiNiscia noted that previous testimony by the applicant stated that the total number of employees would be 4.

Ms. Lawn asked how many signs were proposed by the applicant. Mr. DiNiscia replied one.

Following questions from the public, Mr. Harrison addressed Mr. Semer and asked if he had testimony to present. Mr. Semer replied yes and noted that he had six witnesses prepared to testify. Mr. Harrison called Mr. Semer to begin his testimony.

Mr. Semer introduced Ms. Gail Abromowitz of Unit 8 at 51 North Mountain Avenue. Ms. Abromowitz noted that she has resided in the property for 22 years. She stated that while the parking area does sometimes have vacancies, many times it is occupied. She stated she disagreed with the parking survey findings presented by Mr. DiNiscia.

Mr. Trevenen then posed questions of Ms. Abromowitz.

Mr. Trevenen asked how frequently Ms. Abromowitz would circle the parking area looking for a space. Ms. Abromowitz replied on average twice a week.

Mr. Trevenen asked at what time Ms. Abromowitz would circle the parking area looking for a space. Ms. Abromowitz replied about 5pm or 6pm.

Mr. Trevenen asked if this practice of circling for parking occurred on any particular day. Ms. Abromowitz stated that weekends were most difficult to park when other owners have guests visiting even while the dental practice has been closed. She stated that Mr. DiNiscia's assessment of the parking was skewed.

Mr. Trevenen asked if all 22 spaces were used during busy parking periods. Ms. Abromowitz replied yes.

Mr. Semer then called Ms. Andrea Kerner of Unit 6 at 51 North Mountain Avenue. Ms. Kerner stated that parking is tight in the parking area. She noted that each unit does have a numbered space. She stated that parking is limited for guests. She also noted that the most recent dentist who occupied the property had limited hours and that this space has now been vacant for 15 months.

Mr. Trevenen asked how long Ms. Kerner had resided at the property. She stated 10 years.

Mr. Trevenen asked when less parking was available. Ms. Kerner stated that weekends and evenings were most difficult to park. She noted that there is also limited parking on-street and that it can be tough to exit the lot onto North Mountain Avenue with limited site lines.

Mr. Semer then called Ms. Jill Shapiro of Unit 2 at 51 North Mountain Avenue. Ms. Shapiro stated that she has been a 12 year resident of the property. She stated that parking on the site is frequently full and depends on the time of day. She stated that even her reserved space for her unit has been taken at times. She stated that evenings during the week and weekends are the most crowded periods. She stated that in the summer there is often greater availability of parking than in the winter when snow can also limit spaces in the lot.

Mr. Trevenen asked if Ms. Shapiro was an owner or a tenant. She stated she was an owner.

Mr. Trevenen asked if Ms. Shapiro learned of the parking easement agreement between the two subject properties when she purchased the property. She stated no and replied that she learned of the agreement this past summer.

Ms. Shapiro also noted that there have been accidents in the parking area and that visibility is very limited when exiting the parking lot onto North Mountain Avenue. She noted that she was in an accident.

Mr. Semer then called Mr. Richard Senecal of Unit 4 at 51 North Mountain Avenue. Mr. Senecal stated that he has been an owner at the property for 12 years. He stated disagreement with Mr. DiNiscia's findings on the parking. He noted that weekday evenings the parking area fills up. He also noted that it is difficult to park on the weekend. He also noted that on-street parking along North Mountain Avenue is very busy in the area. He stated that this presents issues with exiting the parking lot and makes for a dangerous condition. He noted concern about any increased use of the parking lot and congestion in the area.

Mr. Trevenen asked when Mr. Senecal was made aware of the easement agreement. Mr. Senecal stated that it was community knowledge that perhaps 2-3 spaces were to be used by the office, however, it was recently brought to his attention that 8 spaces were to be shared under the agreement. Mr. Trevenen reiterated that Mr. Senecal was indicating he had never seen the agreement. Mr. Senecal replied no.

Mr. Senecal stated that he works at home one weekday per week and notes lots of available spaces generally between 8am and 5pm.

Mr. Trevenen stated that the property is located within the R-3: Garden Group zone district and could be converted to a 3 family which would further increase parking demand in the lot.

Mr. Harrison noted that the conversion to a 3-family may require a parking variance.

Ms. Baggs asked Mr. Senecal about the difficulty exiting the parking area. She asked if the addition of a driveway to access the new parking area for 49 North Mountain Avenue would complicate the existing egress from the parking area. Mr. Senecal stated that if cars were parked within the driveway, visibility would be further limited to see cars coming down North Mountain Avenue. However, he said it may be improved as fewer cars would be parked on the street. He stated he was unsure of the potential impact.

Mr. Trevenen asked Mr. Senecal how many spaces were in the parking lot in 2005 when he purchased his unit. Mr. Senecal stated the number of spaces was the same as exist today.

Mr. Semer then introduced Ms. Anna Lackey of Unit 7 at 51 North Mountain Avenue.

Ms. Lackey stated that she is a 14 year resident of the property and serves a leadership role with the condo association. She stated that she is home during the week and works at home and off-site. She noted disagreement with Mr. DiNiscia's findings that the parking area is underutilized. She noted that while there is ample parking during the day, evenings and weekends prove challenging for parking. She noted since the departure of the dentist 15 months ago, parking has improved on the site. She also noted the loss of spots in the lot during the winter months due to snow.

Mr. Semer presented four photo boards illustrating the site, which were marked as Exhibits O-4, O-5, O-6 and O-7. He asked Ms. Lackey to review all of the photos and describe them for the Board.

Ms. Lackey summarized concerns noting the lack of pedestrian sidewalks in the parking area for residents made walking difficult. She also noted concern among residents about use of the parking area by non-residents who may be visiting the office at 49 North Mountain Avenue.

Mr. Semer asked Ms. Lackey to review the costs associated with property maintenance for the subject properties that have been paid by the condo association.

Mr. Harrison stated that the cross-easement agreement stipulates that the condo association is responsible for maintenance of the parking area and driveway. He noted that the Board is not equipped to change the structure of the agreement.

Mr. Sullivan stated that this presentation of financial information would not be relevant to the application.

Mr. Semer stated that he would like the Board to consider a condition of approval that the easement be restructured.

Mr. Semer asked Ms. Lackey to discuss snow in the parking area. Ms. Lackey stated that the snow is typically pushed to the back of the lot and does result in a loss of 1-2 parking spaces, which further decreases available parking.

Mr. Trevenen noted that parking challenges appear to be mostly weekday nights and on weekends. He asked Ms. Lackey how long she had resided at the property and what her leadership position with the condo association was.

Ms. Lackey stated she was President of the condo association and had resided in her unit for 14 years.

Mr. Trevenen asked when she was made aware of the easement agreement for parking between the properties. Ms. Lackey stated she was made aware in August 2016.

Mr. Trevenen referred to the presented photo boards and noted empty parking spaces in the photos. Ms. Lackey replied yes and noted the photos were taken during the day.

Mr. Trevenen asked when the number of spaces in the lot was reduced from 24 to 22. Ms. Lackey stated she did not know.

Mr. Trevenen then summarized the application. He noted that the Board had heard testimony over 2 hearings on the application. He stated that the applicant has worked to address as many site issues as possible. He noted that Mr. DiNiscia stated that the use history of the property is consistent with the proposed use.

Mr. Trevenen noted that the application has been reviewed by both the Development Review Committee and the Historic Preservation Commission.

Mr. Trevenen requested a 5 minute break to discuss how to proceed with his client, given the attendance of only 6 Board members.

The Board took a 5 minute break.

Following the break, Mr. Trevenen stated that the applicant needs to move forward with the application as they are contract purchasers and need to finalize the sale of the property.

Final comments from the Board were then accepted.

Mr. LaVail stated that he would not be in favor of the application. He noted that if no difference in the medical office use was proposed he would be more favorable to the application. He stated that aside from the easement, there were too many detrimental impacts to the area. He noted that the dwelling on the subject property is a beautiful historic home and the loss of green open space around the home would be a negative.

Mr. Moore stated that he is supportive of businesses in Montclair and wants to see them thrive. However, he noted that the residents of 51 North Mountain Avenue are impacted by the proposal. He stated that overall the application would present a hardship on the condo owners. He stated he would not be in favor of the application.

Ms. Baggs stated that she has reviewed all of the testimony carefully and noted whether the applicant had special reasons for which a variance would be granted. However, she noted that she did not hear special reasons for hardship in this case. She noted that there is no requirement for the applicants to reside at the property. She stated the only other special reason presented was that the proposed use was a minor variation of the previous dental use. She stated that the property has not been used as a dental office for more than a year and should revert to its original residential use. She questioned the suitability of the site for the proposed use as the applicant had testified that the use would not be suitable for the historic dwelling without the 3 new on-site parking spaces. She noted that there was no information presented on the interior configuration of the dwelling to determine suitability. She also noted that four variances were needed to make the dwelling suitable for the proposed use. Ms. Baggs also noted a lack of testimony on traditional locations of real estate offices which are usually in commercial areas. She also noted that there was no testimony regarding the traffic impact of the proposed use, especially considering the testimony from residents on the busy street. She noted that while it is good to maintain this business in the community, it is also important to consider land use.

Mr. Reynolds stated that the history of the site is interesting. He noted in reviewing the variances, many are not significant aside from the use variance. He noted that the proposed office use is less intensive than the previous medical office. He also noted the changing nature of the real estate industry and how it is less intensive. He stated a condition could be added to require that the newly create spaces on 49 N. Mountain Avenue be used first before any shared spaces on 51 N. Mountain Avenue are used. He stated he was generally in favor of the application.

Mr. Allen stated that no matter the outcome the property would be sold and the easement agreement could be renegotiated. He stated that while a real estate office use is not permitted on the site, he noted that the property would be owner-occupied which alleviates the situation. He stated that many real estate offices are not busy on-site and this would not present traffic concerns. He stated the application appears feasible and would be in favor.

Mr. Harrison stated that normally under the Municipal Land Use Law, the preference is for uses to become conforming. He stated that this is a unique, existing non-conformity in the R-3 zone which perhaps permits more intensive development on the site. He stated that the existing easement was recorded at the time when both lots were under common ownership. He stated that as drafted the easement does not make much sense. He noted that the proposed office use requires 2 fewer spaces than the existing medical use. He also noted that the applicant proposes to add parking spaces for a net gain of 3 spaces on the subject properties when compared to previous approvals. He stated it would be unfair to impose a condition on the applicant to further reduce the number of spaces. He also stated that the Board should not consider this as a family owned business in the community. He noted that special reasons were shown including the reuse of the historic property. Mr. Harrison also noted that separating the parking for the residential use of 49 North Mountain Avenue will improve the parking situation for the subject properties. He noted that the residential parking demand for 51 North Mountain will be greatest during weekday evenings and weekends. Mr. Harrison stated he would not be in favor of the requested sign variance. He noted the home is historic and distinctive and that the proposed sign was not reviewed by the Historic Preservation Commission.

The Board then proceeded to a vote on the use variance. A motion was made by Mr. Allen, seconded by Mr. Reynolds to approve the professional office use at the subject property. Mr. Harrison, Mr. Reynolds, Mr. Moore, Mr. Allen and Mr. LaVail voted in favor and Ms. Baggs voted against. The use variance was approved.

The Board then voted on the requested sign variance. A motion was made by Mr. Reynolds, seconded by Mr. Allen to grant the variance for the free-standing sign. Mr. Reynolds, Mr. Moore and Mr. Allen voted in favor and Mr. Harrison, Ms. Baggs and Mr. LaVail voted against. The sign variance was denied.

The Board then voted on the site plan and all other "c" variances requested by the applicant.

Mr. Harrison summarized the conditions of approval:

- The applicants shall comply with and satisfy comments 1, 3 through 6 contained in the October 15, 2016 review memorandum prepared by W. Thomas Watkinson, P.E., P.P., Board Engineer except with respect to comment 4, the details and site plan shall be revised to correct the seepage pit elevations on the detail and those on the site plan.
- The proposed screening of the new parking area shall be relocated so that it is at least 6 feet from the parking area to provide a greater area for snow removal.
- The existing trumpet vine or other vines on the stockade fence shall be removed.
- The relocated stockade fence shall be repaired and relocated to the southerly property line and grass shall be planted between the fence and the new parking area.
- The real estate office use shall be limited to 9 a.m. to 5 p.m. Monday through Friday and 9 a.m. to 3 p.m. Saturday and Sunday.
- There shall be no more than 4 employees on site at any one time in connection with the real estate office use.
- The applicants shall agree to reduce their entitlement to the “unassigned parking area” on Lot 22.01 from 8 parking spaces to 5 parking spaces excluding the existing parking space located on Lot 22.
- The applicants shall be bound by their own representations as well as those made on their behalf by their attorney and professionals during the course of the public hearing.
- The applicants shall be responsible for all inspection fees required under Montclair Code Section 202-27 as well as escrow fees incurred in connection with review of this matter.

Ms. Baggs noted that the memo from the HPC says the proposed modifications will not detrimentally impact the historic district. She noted the mass of parking next to the house. She stated it would be better to have 2 parking spaces rather than 3 in this area. She also noted the location of the driveway results in a loss of a street tree. Ms. Baggs also noted that the previous resolutions of the Planning Board and Board of Adjustment encouraged sharing the driveway on the properties. She believes there are both pros and cons to the additional parking area the applicant proposes next to the house.

Mr. Harrison noted Ms. Baggs comments and recommended two additional conditions of approval.

- The new parking area shall be reduced from 3 parking to 2 parking spaces and shall be moved further to the east to align as close as possible, with the front wall of the building not the front of the porch.
- The tree to be removed to accommodate the new driveway shall be replaced on the property in consultation with the Township Arborist.

A motion was made by Mr. Reynolds, seconded by Ms. Baggs to approve the site plan and grant all other “c” variances sought by the applicant. Mr. Harrison, Mr. Reynolds, Ms. Baggs, Mr. Moore and Mr. Allen voted in favor and Mr. LaVail voted against. The site plan and all other “c” variances were approved.

App. 2467: Trademark Sign (Capital One Bank). 605 Valley Road. Bulk variance for signage installation and automated teller machine replacement.

Mr. Harrison introduced the application. Present for the applicant was Mr. Cal Trevenen, attorney.

Mr. Trevenen introduced Mr. Michael Nasto, sign vendor for the applicant. Mr. Nasto introduced Exhibit A-1, an updated sign plan that incorporated the recommendations of the Historic Preservation Commission.

Mr. Nasto reviewed the existing signage at the subject property. He noted that the applicant intends to remove some existing signage and update the branding at the subject property. He also noted that two new awnings would be installed on the front façade.

Mr. Nasto reviewed the memo from the Historic Preservation Commission and detailed the revisions to the plans in Exhibit A-1 to comply with the HPC recommendations.

Questions from the Board were then accepted.

Mr. Harrison asked how many window signs would be installed at the front entry. Mr. Nasto stated there would be two window signs in sidelights on either side of the entry doors.

Mr. Harrison asked about the proposed sign at the rear. Mr. Nasto stated that the light box would be refaced and the lighting would be changed to have the sign illuminated by goosenecks mounted above the sign.

Mr. Nasto reviewed the previous Certificate of Appropriateness issued by the HPC for the installation of the existing signage at the property to indicate location of signage.

Mr. Trevenen then introduced Mr. Roger DiNiscia, planner for the applicant.

Mr. DiNiscia noted that the storefront has 34 feet of width along Valley Road. He reviewed the signage plan. He noted that the proposed area of signage is 31 sq. ft. which complies with the ordinance requirement. He also noted that the non-conforming internally illuminated sign would be replaced with a conforming externally illuminated sign.

Questions from the Board were then accepted.

Mr. Harrison asked about the awning to be mounted on the right side of the storefront on Valley Road. He noted it would be installed over a wall. Mr. DiNiscia stated that the awning was proposed to balance the look of the façade, which has a complementary awning over the ATM area.

Mr. Trevenen concluded the testimony on the application.

Final comments from the Board were then accepted.

Mr. Moore stated that he would be in favor of the applicant. He noted that the proposed changes will upgrade the business district and add aesthetic value.

Ms. Baggs stated that the proposed signage is an improvement. She also stated appreciation for the reduction in the size of the signage and the elimination of the internal illumination. She stated she would be in favor.

Mr. Reynolds state he would be in favor of the application.

Mr. Allen stated the signs look good and balanced. He stated he would be in favor.

Mr. LaVail stated he would be in favor for the same reasons referenced by fellow Board members.

Mr. Harrison stated he would be in favor of the application. He also noted it is an improvement over the existing condition. Mr. Harrison summarized the conditions of approval:

- The applicant shall implement the improvements contained in the sign details consisting of ten sheets prepared by ssg. marked as Exhibit A-1.
- The applicant shall be bound by its own representations as well as those made on its behalf by its attorney and professionals during the course of the public hearing.
- The applicant shall be responsible for all inspection fees required under Montclair Code Section 202-27 as well as escrow fees incurred in connection with review of this matter.

A motion was made by Mr. LaVail, seconded by Ms. Baggs to approve the application with the conditions as stated. The application was approved unanimously.

App 2468: Yatin & Nelti Patel. 12 Frink Street. *Bulk variances for construction of 2-family home in C-2 zone district.*

Mr. Petto noted that a correspondence has been received from the applicant requesting that the application be carried to the November 16 meeting of the Board of Adjustment. The Board agreed with the request and Chair Harrison announced that the application would be carried with no further notice.

App. 2469: Montclair Town Center, LLC. 37 North Mountain Avenue/323 Claremont Avenue. *Office use in the R-3 zone district, site plan.*

Mr. Petto noted that a correspondence has been received from the applicant requesting that the application be carried to the November 16 meeting of the Board of Adjustment. The Board agreed with the request and Mr. Sullivan announced that the application would be carried with no further notice.

NEW BUSINESS

App. 2471: Scarlet Real Estate, LLC. 126 Midland Avenue. *Bulk variances for reconstruction of a dwelling.*

Chair Harrison introduced the application.

Present on behalf of the applicant was attorney Alan Trembulak. Mr. Trembulak stated that given the late hour and some conversations with neighbors regarding the application, he would request a continuation of the application to the November 16 meeting of the Board of Adjustment.

The Board agreed with the request and Chair Harrison announced that the application would be carried with no further notice.

App. 2472: Frank Cano. 543 Upper Mountain Avenue. Bulk Variance for a 3rd story addition.

Chair Harrison noted that the application would not be reached this evening given the late hour. He asked the applicant, Mr. Frank Cano, if he would like to carry the application to the November 16 meeting of the Board of Adjustment. Mr. Cano agreed to have the application carried.

Chair Harrison announced that the application would be carried with no further notice.

ADJOURNMENT

A motion to adjourn the meeting was offered by Mr. Allen, seconded by Ms. Baggs. The meeting was adjourned at 11:20pm, October 19, 2016.

Respectfully submitted,

A handwritten signature in cursive script that reads "Graham Petto".

Graham Petto, P.P., AICP
Zoning Board of Adjustment Assistant Secretary