



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT

March 15, 2017

ORDER: The meeting was called to order at 7:35 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, Mr. Fleischer, Mr. Reynolds, Ms. Baggs, Mr. LaVail, Mr. McCullough, Mr. Sullivan and Mr. Petto. Ms. Chowaneic, Mr. Moore and Mr. Allen were excused. Ms. Daye was absent.

APPROVAL OF MINUTES:

Mr. Harrison introduced the minutes of the February 8, 2017 Board meeting. He noted a few edits to the minutes as presented. Ms. Baggs also noted edits to the minutes. A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the minutes as amended. The minutes were approved unanimously.

OLD BUSINESS:

Resolution for App. 2487: 10 Norman Road. Harry & Arlene Moskowitz. Bulk variance for side yard setback of new garage.

Chair Harrison introduced the application.

Mr. Harrison noted a few edits to the resolution.

A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the resolution as edited.

The resolution as approved unanimously with Ms. Baggs abstaining.

Resolution for App. 2480: JP Morgan Chase Bank. 15-21 North Fullerton Avenue. Use variance for construction of a new bank building in the OR-3 zone and site plan approval.

Chair Harrison introduced the application.

Mr. Harrison noted a few edits to the resolution.

A motion was made by Mr. Fleischer, seconded by Ms. Baggs to approve the resolution as submitted.

The resolution as approved unanimously with Mr. Fleischer, Ms. Daye and Mr. McCullough abstaining.

App. 2491: 62 Wildwood Avenue. Eileen Opatut & Joan Garry. Bulk variance for lot width & front yard parking for new single-family dwelling.

Chair Harrison introduced the application. Present for the applicant was attorney Alan Trembulak. Mr. Trembulak summarized the application before the Board to construct a new single-family dwelling. He noted that the applicant sought two variances; one for minimum lot width and one for front yard parking. He noted that in response to the Planning memo, the driveway area has been reduced to one-car width.

Mr. Trembulak introduced Exhibit A-1, an enlarged Tax Map 46 of the Township of Montclair Tax Maps.

Mr. Trembulak called Mr. John Guadagnoli, architect for the applicant. Mr. Guadagnoli reviewed the plans for the dwelling and noted the variances sought by the applicant.

Mr. Guadagnoli introduced Exhibit A-2, a rendering of the proposed dwelling.

Mr. Guadagnoli noted that the proposed dwelling is narrow and that locating a driveway alongside the dwelling would further narrow the dwelling. He noted that this necessitates the requested front yard parking variance. He stated that the dwelling has been moved further onto the lot with a greater front yard setback to mitigate the parking location.

Mr. Trembulak asked if other alternatives had been considered to accommodate the parking. Mr. Guadagnoli stated that a garage at the rear of the lot would require a lengthy narrow driveway to access as well as the removal of a number of trees in the rear yard.

Questions from the Board were then accepted.

Mr. Fleischer stated that stacked parking is not preferable. He asked if the garage could be extended forward to accommodate the car within the garage.

Mr. Petto reviewed **Montclair Code § 347-34B** for the Board, which states that no off-street parking area, whether or not within a garage, shall be located between the main building and the curb of the street on which the building fronts.

Mr. Fleischer stated that the plan could be modified to eliminate the front yard parking.

Mr. Harrison asked about the configuration of garages at other dwellings in the area. Mr. Trembulak stated that both 66 and 68 Wildwood Avenue have similar garages located in the front of the home. He stated most others have garages in the rear.

Questions from the public were then accepted.

Kevin Zaccareo, 45 Wildwood Avenue, asked if taxes had been paid on the property. Mr. Trembulak stated that he believed so but would ensure any outstanding taxes be paid.

Mr. Zaccareo stated that there are multifamily dwellings in the area and stated that the applicant may plan to rent it out. He also stated that the minimum lot width requirement is in place to protect single-family dwellings.

Roger Paradiso, 57 Division Street, stated that there is a division among neighbors on the street between single- and multi-family property owners. He noted that the applicant

should not have purchased the property if it was not a buildable lot. He stated that the plans as presented show that the house will be constructed sideways on the lot. He stated that the house does not fit in the neighborhood.

Mr. Fleischer noted that 6 of the 9 lots on the street are not buildable lots under the current lot width requirement. He stated that the lot was legally created and that the minimum width requirement was created later. Mr. Fleischer also noted that the plans before the Board are for a single-family dwelling.

Beverly Daynes, 72 Wildwood Avenue, asked if the driveway could be located on the side of the dwelling to access parking in the rear. Mr. Guadagnoli stated that it was possible.

Anthony Perna, 70 Wildwood Avenue, stated that he objected to the variance request. He stated that granting the minimum lot width variance would set a precedent for the street to allow further development. He stated that the multifamily dwellings pay less in taxes than the single family dwellings.

Mr. Perna continued that the applicant is a realtor and intends to rent the dwelling.

Mr. Perna also stated that the proposed front yard setback was too great for the dwelling and would allow 5 cars to be parked in the front yard. He stated that the dwelling should be moved closer to the street.

Brian Synnott, 58 Wildwood Avenue, stated that there are some trees on the lot but noted that they will need to be cleared for construction of the proposed dwelling. He stated that the Township is not controlling the multifamily dwellings on the street. He asked that the Board not allow additional non-conforming conditions on the street.

Mark Davis, 67 Wildwood Avenue, stated opposition to the variance. He stated concern about the large front yard setback which would break the streetscape.

Frank Rubacky, 398 Upper Mountain Avenue, noted that the proposed parking in the front yard and the large appearance of a garage on the front of the dwelling would be a detriment to the neighborhood and did not present a hardship condition.

Mr. Trembulak then called Ms. Eileen Opatut, applicant, to testify.

Ms. Opatut stated that she and her partner have been long residents of Montclair and have been looking to downsize. She stated that the lot was purchased in September 2016 to construct a home to be used as a primary residence. She noted that it has been difficult to find a home in the Township with the competitive market. She also noted that the intention is to use the rear room as an office in the short term and convert to a first floor bedroom in the future.

Questions from the Board were then accepted.

Mr. LaVail asked why the garage could not be located in the rear yard. Ms. Opatut stated that the impact of locating the driveway alongside the dwelling would be detrimental and result in a narrower home.

Ms. Baggs asked about the vacant lot and the potential impact of a new dwelling on the lot with respect to taxes. Ms. Opatut stated that a vacant lot was sought as it would be

easier to develop and she stated that she is not certain of the tax implications, but that it would be an improvement for the lot.

Mr. McCullough asked about the covered area connecting the main house and the office/future bedroom and if it could be covered now. Ms. Opatut stated that it was intended to provide additional separation from the office in the interim. Mr. McCullough noted that a full bathroom would need to be installed on the first floor when used as a bedroom.

Mr. Reynolds asked if the dwelling were a four bedroom if there would be sufficient parking. Mr. Trembulak replied yes.

Comments from the public were then accepted.

Kevin Zaccareo, 45 Wildwood Avenue, stated that the applicant should clarify when the lot was purchased and show the deed. He also stated that the applicant should certify that taxes are paid and that the applicant is the true owner.

Roger Paradiso, 57 Division Street, stated that the applicant is a realtor that will rent the dwelling or sell it. He stated that there is little open land on the street. Ms. Opatut stated that the dwelling will be a single family and will be an improvement for the street. She stated that the intention is to reside in the dwelling and stated that there is a possibility that it could be sold in the future.

Anthony Perna, 70 Wildwood Avenue, stated that the office/future bedroom could be used for in person clientele which would be not be allowed in the zone.

Frank Rubacky, 398 Upper Mountain Avenue, asked about the front yard between the sidewalk and the house. Ms. Opatut stated that there would be an English garden in this area with roses.

Mr. Rubacky stated that most of the front yard is occupied by the garage and parking and would be detrimental to the neighborhood.

Mr. Trembulak then summarized the application and the requested variance for the Board.

Final comments from the Board were then accepted.

Mr. LaVail stated he would be in favor of the lot width variance. He stated it would be an improvement for the street. He stated he would not be in favor of the parking variance and stated other options can be pursued that meet code requirements.

Ms. Baggs stated that she would be in favor of the lot width variance. She stated that the developed lot would be an improvement over the existing vacant lot as it would create additional tax revenue. She noted that the applicant's stated intention to reside in the dwelling and has plans for long-term living on one level, which is difficult to find. She stated she would not be in favor of the parking variance.

Mr. Fleischer stated that he would be in favor of the lot width variance. He noted that the lot is small and that the proposed dwelling is a good solution. He stated that he would not be in favor of the front yard parking variance.

Mr. Reynolds stated he would be in favor of the lot width variance. He stated he would not be in favor of the front yard parking variance.

Mr. McCullough stated he would be in favor of the lot width variance. He stated that the front yard parking is not preferable. He stated that the office and rest of the dwelling should be better connected over the proposed covered walkway.

Mr. Harrison stated that the hardships of the application are related to the characteristics of the existing lot and that the Board has no basis to deny the lot width application. With respect to the lot width variance request, he noted that there will be no detriment to the zone plan nor the public good of the application. On the front yard parking variance, he stated opposition, noting that there are no other homes with front yard parking on the street. He stated that there are other alternatives to accommodate parking on the lot.

Mr. Harrison noted the following conditions of approval:

1. The proposed driveway is to be no more than 13 feet in width.
2. The applicant is to pay any and all outstanding taxes owed on the subject property.

Ms. Baggs asked if the garage could be pushed rearward in line with the front of the house, which would then perhaps conform to the ordinance.

Mr. Fleischer asked for clarification of the ordinance to determine if the language was with respect to accessory structures for garages.

Mr. Petto read **Montclair Code § 347-34B** for the Board, which states that no accessory structure nor off-street parking area, whether or not within a garage, shall be located between the main building and the curb of the street on which the building fronts.

Mr. Harrison stated that the distinction separating accessory structure from the other language means that garages are subject to the same restriction on front yard locations.

A motion was made by Mr. Reynolds, seconded by Mr. Fleischer to approve the variance request of the minimum lot width and deny the variance request of front yard parking. The motion passed unanimously.

The Board took a 10 minute recess.

Following the recess, after Mr. Harrison recused himself, Mr. Trembulak requested that App. 2493: 89 Valley Road be carried to the April 19, 2017 hearing of the Board. The Board agreed to the request and announced that the application would be carried with no further notice.

App. 2486: 630 Valley Road. T-Mobile Northeast, LLC. Wireless telecommunications installation in N-C zone.

Mr. Harrison introduced the application. Present for the applicant was Mr. Dean Stamos, attorney for the applicant.

Mr. Stamos summarized the previous appearance before the Board. He noted that plans have been revised significantly based upon the previous appearance before the Board.

Mr. Stamos introduced Mr. Peter Ludas, engineer for the applicant.

Mr. Ludas reviewed the proposed changes to the plans and noted that the antennas have been reduced to be flush-mounted to the parapet wall, with the exception of the gamma sector, which will extend one inch above the parapet wall.

Questions from the public were then accepted.

Mr. Frank Rubacky, 398 Upper Mountain Avenue, introduced Exhibit O-1, a photo booklet of the subject property. Mr. Rubacky reviewed the prepared exhibits and noted the number of antennas on the building. He stated that all of the installations have changed the appearance of the historic landmark building.

Mr. Rubacky stated that the Board should not constrain the antennas with respect to height and stated they should not be installed to the face of the building as proposed. He also noted that any unused equipment should be removed.

Questions from the Board were then accepted.

Mr. Harrison asked if the existing GPS antenna or equipment cabinet would be changed under the application. Mr. Ludas replied no.

Mr. Harrison asked if the antennas would be painted to match the building, noting that the existing antennas on the building are of varying shades of the building color. Mr. Stamos stated that the contractor would match. Mr. Ludas continued that all equipment owned by the applicant on the building could be repainted.

Mr. Fleischer asked if unused equipment could be removed and the façade of the building repaired. Mr. Ludas replied yes.

Final comments from the Board were then accepted.

Ms. Baggs stated that the applicant has responded to requests from the Board. She stated that the proposed antennas will not visibly change the appearance of the building. She stated that the improved cell service would be a benefit to the community. She stated she would be in favor of the application.

Mr. Fleischer stated that the applicant has largely met the requirements of the ordinance. He stated he would be in favor.

Mr. Reynolds stated he would be in favor.

Mr. McCullough stated he would be in favor.

Mr. LaVail stated he would be in favor.

Mr. Harrison stated he would be in favor. Mr. Harrison reviewed proposed conditions of the approval:

1. The antenna to be installed on the western façade fronting the Bellevue Plaza parking lot should not exceed one inch above the top of the parapet wall to which it is mounted. All other antennas to be installed shall conform to the requirements of the ordinance.
2. The antennas shall be painted to match the façade on which it is located.
3. Any unused structure(s) shall be removed and the building repaired.

4. The applicant shall be bound by all representations made on its behalf by its attorney and professionals during the course of the public hearing.
5. The applicant shall be responsible for all inspection fees incurred 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. Fleischer to approve the application with the conditions stated by Mr. Harrison. The motion was seconded by Mr. Reynolds. The application was approved unanimously.

Ms. Baggs then departed the meeting at 10:45pm.

NEW BUSINESS:

App. 2481: 102 Lloyd Road. H. Qaim-Maqami & M. Anwarzai. *Bulk variance for front yard setback and number of stories.*

Mr. Harrison introduced the application.

Present for the applicant was attorney John Veteri.

Mr. Veteri summarized the application for the addition to the property and reviewed the two requested variances. He noted the property has dense foliage in the front yard that will be maintained.

Mr. Veteri introduced Yuval Wellisch, architect for the applicant.

Mr. Wellisch reviewed the plans. He noted that the proposed rear addition would be located over the existing patio, so there would be no increase in impervious surface.

Mr. Wellisch introduced Exhibits A-1, A-2 and A-3, proposed before/after renderings of the dwelling.

Mr. Wellisch also noted that no trees would be removed under the proposal.

Mr. Wellisch noted that the application is before the Board for number of stories due to the steep slope of the property which makes the basement constitute one story.

Mr. Harrison asked if the deck could be expanded to the side rather than forward further into the front yard setback. Mr. Wellisch stated that there is a tree in the way so expansion to the side would require removal of the tree. He also noted that a new support column for a side expansion would impede access to the garage.

Ms. Mariam Anwarzai, applicant, was introduced by Mr. Veteri.

Mr. Harrison asked what surface was below the deck. Ms. Anwarzai stated that beneath the deck is a walkway to access the front door of the dwelling and some flower beds.

Mr. Fleischer asked about the 9 foot deck extension. Ms. Anwarzai stated that the extension was to also replace some deck space that would be removed from the side of the dwelling.

Final comments from the Board were then accepted.

Mr. Fleischer stated that he was in favor of the application as submitted.

Mr. Reynolds stated he would be in favor.

Mr. McCullough stated he would be in favor.

Mr. LaVail stated he would be in favor.

Mr. Harrison stated that he would be in favor. He noted that access to the garage at the location of the tree prevented side expansion of the deck and justified the forward expansion presented by the applicant.

A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the application as submitted. The application was approved unanimously.

App. 2493: 89 Valley Road. BG Holdings LLC. *Use variance for medical office use in R-2 zone district.*

The Board agreed to a request to carry the application to the April 19, 2017 meeting of the Board and announced that the application would be carried with no further notice.

ADJOURNMENT

A motion to adjourn was offered by Mr. Fleischer, seconded by Mr. Reynolds. The meeting was adjourned at 11:15pm, March 15, 2017.

Respectfully submitted,

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

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