



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT

April 26, 2017

ORDER: The meeting was called to order at 7:30 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, Ms. Baggs, Mr. Moore, Mr. LaVail, Ms. Daye, Mr. Silver, Mr. Sullivan and Mr. Petto. Mr. Allen, Mr. Reynolds, Mr. McCullough and Ms. Chowaneic were excused.

OLD BUSINESS:

App. 2492: 250 Upper Mountain Avenue. Alexandra Davies & Jay Fastow. Bulk variance from front yard setback for additions to existing dwelling.

Mr. Harrison introduced the application. Present for the application was the applicant, Alexandra Davies and Derk Garlick, architect for the applicant.

Mr. Garlick introduced two exhibits to the Board. Exhibit A-1, a context photo-survey of the subject property and adjacent properties and Exhibit A-2, an updated topographic survey and grading & drainage plan, prepared by Casey & Keller, Inc., dated January 17, 2017.

Mr. Garlick reviewed the proposed plans for the dwelling. He reviewed the proposed additions to the dwelling and their location on the dwelling. He noted that the dwelling, while setback far from the street, is located within the required front yard setback as the adjacent dwellings are set back further from the street.

Mr. Garlick also noted that a new one-car garage would be developed to the rear of the dwelling under the plan.

Mr. Garlick reviewed Exhibit A-2, the revised grading and drainage plan, noting that the drainage has been reconfigured to minimize removal of trees on the site.

Questions from the Board were then accepted.

Ms. Baggs asked if there was an existing garage in the front of the dwelling. Mr. Garlick replied yes.

Ms. Baggs asked about the location of parking in the front yard. Mr. Garlick stated that the garage in the dwelling would be retained in addition to the new one-car garage, as constructing a new three-car garage would be difficult, given the hillside location of the dwelling.

Ms. Baggs asked if the applicant would be using real stone. Ms. Davies stated that they are evaluating the cost of real stone, but that they would like to use real stone in the renovation.

Mr. Harrison noted that the Historic Preservation Commission reviewed the application and provided a review memo. He noted that the recommendation is to use natural stone. Ms. Davies stated that she would like to use natural stone if cost allows.

Mr. Harrison stated that the condition could be modified to note that the applicant is to use natural stone where it will be used on the dwelling.

He also noted that a condition should be added that the applicant should adhere to the comments by the Board Engineer and submit the revised plans to the Board Engineer for review.

Final comments from the board were then accepted.

Ms. Daye stated that she would be in favor of the application with the stated conditions.

Mr. LaVail stated he would be in favor.

Ms. Baggs stated she would be in favor of the front yard variance request.

Mr. Fleischer stated he would be in favor. He stated that the condition concerning the stone should be modified to require the applicant to use natural stone, if stone is used on the façade, not necessarily exactly where as shown on the plan.

Mr. Allen stated he would be in favor.

Mr. Silver stated he would be in favor.

Mr. Harrison stated he would be in favor. He noted that the house is not setback as far as others on the street and noted that the entire dwelling is non-conforming to the front yard setback requirement. However, he noted that the front yard setback is still quite a distance from Upper Mountain Avenue and the landscaping in the front yard screens the property.

Mr. Harrison summarized the conditions as follows:

1. The applicant is to comply with all comments by the Board Engineer as noted in the memo to the Board of Adjustment dated January 8, 2017.
2. The applicant is to submit all revised plans to the Board Engineer for review.
3. The dwelling is to be photo documented in its current condition, interior and exterior. The photos along with plans of the existing building are to be archived with the Montclair Public Library and the Department of Planning & Community Development for record-keeping.
4. The applicant is to use natural stone to the extent that stone is to be used
5. The development is to adhere to the modified plans submitted by the applicant on April 26, 2017.

A motion was made by Mr. Fleischer, seconded by Mr. Allen to approve the application with conditions as stated by the chair. The application was approved unanimously.

NEW BUSINESS:

App. 2500: Montclair Kimberley Academy. 201 Valley Road. *Conditional use variance and site plan for tennis court expansion.*

Mr. Harrison introduced the application. Present for the applicant was attorney Alan Trembulak.

Mr. Trembulak summarized the application, which is for property at the Middle School of the Montclair Kimberley Academy. He stated that the plan is to reconfigure the tennis courts from a total of six courts to five courts. He stated that the plan is also to construct a new pavilion for the new courts and install new landscaping and fencing improvements.

Mr. Trembulak introduced Robert Walsh, engineer and professional planner for the applicant.

Mr. Walsh reviewed the plans in detail for the proposed site improvements. He noted that the existing courts are in need of repair and need to be moved away from an existing ball field on the school property. He noted that drainage improvements, fencing and screening would all be incorporated in addition to the new courts and pavilion.

Mr. Walsh reviewed the proposed landscape plan and discussed the review of the plan by the Township Arborist. Exhibit A-1 was introduced, an email from the Township Arborist on the landscape plan. He noted that the Arborist approves of the proposed tree removal on the site.

Mr. Walsh reviewed the requested variances of the applicant. He noted that the courts have been located on the property since approximately 1972.

Questions from members of the Board were then accepted.

Mr. Fleischer asked about the proposed six foot fence along Brunswick Road and if it could be reduced to 4 ½ feet in height, which is the front yard fence requirement for the R-1 zone district. Mr. Walsh stated that the fence height was proposed to protect the drainage swale and landscaped area between the sidewalk and the new tennis courts.

Mr. Fleischer also noted there is an opening in the fence along the driveway that should be enclosed to prevent people from accessing the swale area.

Mr. Fleischer stated that the fence should be 4 ½ feet in height.

Mr. Harrison asked for a review of the setbacks. He noted that while the courts are reconfigured and shifted, they may in fact be closer to the property lines in some places compared to the previous location. Mr. Harrison asked if the tennis court area could be shifted southward by one foot. Mr. Walsh replied yes.

Mr. Harrison stated he agreed with the comments of the Township Arborist, except for the 18" oak tree near the entrance driveway along Brunswick Road. He asked if this tree could be retained. Mr. Walsh replied yes.

Mr. Harrison also asked for clarification if the screening plantings would be arborvitae. Mr. Walsh replied yes.

Mr. Harrison reviewed the conditional use requirements for schools. He asked if the proposed tennis courts would require any additional parking or changes to the parking. Mr. Walsh replied no. Mr. Harrison noted the parking requirement of the conditional uses and stated if no change was requested the applicant should request a waiver of the requirement. Mr. Walsh requested that the parking requirement be waived, particularly as the number of tennis courts would be reduced from six to five.

Mr. Fleischer asked if the new tennis court configuration would be more conducive to competition format, which may be more intensive of a use.

Mr. Trembulak introduced Katherine Davidson, Chief Financial Officer of Montclair Kimberley Academy, to answer.

Ms. Davidson stated that the courts would be for competitive use, just as they are now. She noted that the courts at this location are used by the High School players. She stated that five courts are required for competition and previously, with six courts, one was used for exhibitions.

Ms. Davidson clarified that the Academy is one school with three campuses. She noted that the proposed courts will also be used by the middle school students during physical education classes.

Ms. Davidson also noted that outreach was conducted to the neighbors in the immediate area and a meeting was held on April 13 to discuss the project with the neighbors. She stated that the feedback was positive.

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

Final comments from the Board were then accepted.

Mr. LaVail stated he would be in favor with the conditions discussed during testimony. He stated that the six foot fence along Brunswick Road could be approved and noted that the project is an improvement for the site.

Ms. Baggs stated that she would be in favor of the application as the benefits of the project to improve the site and safety at the school are positive. She stated that there was no justification by the applicant for the 6 foot fence along Brunswick Road and that it should be of a conforming height. She also noted that the 18 inch oak tree near the driveway along Brunswick Road should be retained.

Mr. Fleischer stated he would be in favor of the application, but not in favor of the requested 6 foot fence height variance along Brunswick Road.

Mr. Allen stated he would be in favor of the application and in favor of either the six foot fence or conforming fence height.

Mr. Silver stated he would be in favor.

Ms. Daye stated she would be in favor and noted that access to the swale area should be restricted.

Mr. Harrison stated he would be in favor. He noted that the applicant met the burden for the variance request. He stated that the plan represents an improvement to the property and would not be a detriment to the zone plan nor the public good. He stated he would not be in favor of the 6 foot fence height variance request. He stated that a 4 ½ foot fence would be more consistent with the zone.

He stated that the approval would be for preliminary and final site plan approval and that the Board would waive the parking requirement of the conditional use standards.

Mr. Harrison summarized the conditions:

1. The proposed 6 foot high ornamental fence shall be reduced to 4.5 feet high and shall tie back to the 10 foot high chain link fence on the westerly side of the property.
2. The 18 inch oak to the east of the entrance on Brunswick Road shown to be removed on the plan shall be saved if feasible.
3. The tennis courts and 10 foot high chain link fence and pavilion shall be moved 1 foot to the south to provide a minimum setback of 18 feet from Brunswick Road.
4. The applicant shall comply with and satisfy comment 3 contained in the April 23, 2017 review memorandum prepared by W. Thomas Watkinson, P.E., Board Engineer.
5. The applicant shall obtain Essex County Planning Board approval, if required.
6. 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.
7. 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. Fleischer, seconded by Ms. Baggs to approve the application with the conditions as stated by the Chair. The application was approved unanimously.

App. 2497: 21 Plymouth Street. 21 Plymouth Street, Montclair, LLC. Use variance for 8-unit multi-family in R-1 zone district.

Mr. Harrison introduced the application. Present for the applicant was attorney Bruce Rosenberg.

Mr. Rosenberg summarized the application for the Board. He noted that the existing building on the subject property contains a medical office and two apartments. He stated that the proposal under the applicant's plan is to convert the building into 8 dwelling units; 7 two-bedroom units and one studio unit.

Mr. Rosenberg introduced Yogesh Mistry, architect for the applicant.

Mr. Mistry reviewed the architectural plans. He noted that the applicant proposes eight luxury apartment units. He submitted Exhibit A-1 a color rendering of the proposed building.

Mr. Mistry reviewed the proposed accessible ramp to be installed along the front porch of the building. He noted that the first level units would be accessible. Mr. Mistry reviewed the proposed landscaping and noted that the existing aluminum siding would

be painted. He also noted that storage for each unit would be provided in the basement.

Questions from the Board were then accepted.

Mr. Fleischer asked if the ramp could be constructed without a roof above to reduce the amount of the requested front yard setback variance. Mr. Mistry replied yes, but that the cover was for practical purposes to protect the ramp during inclement weather.

Mr. Fleischer asked about the width of the ramp and the projection of the porch. Mr. Mistry noted that the porch needed to extend 12.7 feet to allow for a five foot clearance circle at the front door for accessibility.

Mr. Harrison asked how the applicant determined 8 units could be constructed in the existing building. Mr. Mistry stated that the applicant evaluated various scenarios, particularly with respect to internal circulation and this was the resulting plan.

Mr. Harrison asked about the storage areas for the units. Mr. Mistry noted that 200 cubic feet would be provided for each unit in addition to the common storage, as required by Montclair Code.

Mr. Fleischer asked if there would be an affordable unit. Mr. Mistry replied yes that one unit would be affordable.

Mr. Fleischer asked why the proposal was not for 5, 6 or 7 units instead of 8. Mr. Rosenberg stated that the planner would address this topic.

Questions from the public were then accepted.

Ms. Charlene Gambino, 22 The Crescent asked about the proposed AC units in the rear yard and if they would be enclosed. Mr. Mistry stated that the site engineer would discuss this topic.

Mr. Charles Marsh, 30 The Crescent, asked about the painted aluminum siding and if that was consistent with luxury apartments. Mr. Mistry stated that the proposal is to retain the existing aluminum siding, which will be cleaned and repainted. He stated that the interior would be the focus of the renovation.

Mr. Levy Brooks, 18 Plymouth Street, asked about the rationale for aluminum siding, noting that most buildings in the area have stucco or wood siding. Mr. Mistry noted that the existing aluminum siding has a clapboard look, which is similar to the wood siding.

Ms. Roseanne Spinley, 12 Plymouth Street asked if the footprint of the building would be the same except for the porch addition for the handicap ramp. Mr. Mistry replied yes.

Questions from the Board were then accepted.

Ms. Baggs asked what would make the apartments luxury units. Mr. Mistry stated that the finishes would be high level, including the appliances.

Mr. Fleischer asked about the siding and asked if the existing finish was factory finished or had it been painted. Mr. Mistry noted that the existing siding has a factory finish. He stated that the refinishing process would be to clean the siding, prime and repaint.

Questions from the public were again accepted.

Mr. John Falcone, 25 Plymouth Street, asked how many people in total would live at the property. Mr. Mistry stated that based on the unit configuration there would be 2 residents per unit. He stated that they were not tailored for four people living in each unit and that there would be a total of 20-21 people in the building.

Ms. Roseanne Spinley, 12 Plymouth Street, asked what size the units would be. Mr. Mistry stated the units would range in size from 670 to 855 square feet.

Mr. Rosenberg then introduced Henry Szwed of 21 Plymouth Street, LLC. Mr. Szwed stated that he has personal experience refinishing aluminum siding and that it has been successful. He noted that he was an engineer for six years and a construction manager for 15 years. He stated that the exterior of the building needs to be maintained at a high level for consistency with the luxury apartments.

Mr. Rosenberg then introduced Patrick McClellan, engineer for the applicant.

Mr. McClellan reviewed the proposed site plan. He noted that there would be a 3 foot solid fence around the proposed AC units.

Mr. McClellan reviewed the proposed parking area and other site improvements. He noted that the parking would be assigned, with one space per units. He also noted that there would be 6 guest parking spaces, with a total of 14 spaces on-site.

Mr. McClellan stated that he has reviewed the Board Engineer's comments and that the applicant would comply. He also reviewed the Planning memo and noted that the trash enclosure would be made of wood and that there would be three pole mounted lights in the parking area. He also stated that the parking area would be screened from adjacent properties.

Questions from the Board were then accepted.

Ms. Baggs noted that there is no lighting detail on the site plan and asked if there were details of the three pole mounted lights. Mr. McClellan replied no.

Mr. Fleischer asked about refuse collection, given the narrow driveway in the parking area. Mr. McClellan stated that collection would be handled by a private contractor and that the dumpsters would be wheeled to the street for collection. He stated that residents would use smaller cans and that property management would transfer the refuse to the dumpster. He also noted that collection would occur twice per week, but added that additional collections could be scheduled if needed.

Mr. Fleischer noted the trash enclosure is located on the property line and asked if this would need a variance. Mr. Petto stated that the enclosure is an accessory structure, which has a six foot setback requirement in the zone, so the enclosure would need a variance.

Mr. Fleischer stated that the site is too small for the proposed number of units and parking spaces. He stated that the applicant is trying to squeeze too many things onto the property.

Mr. Harrison stated he had concerns about the lighting and the lack of details to know what would be installed.

Mr. Harrison asked if wheel stops would be added to the parking spaces to prevent damage to the screening along the property line. Mr. McClellan stated they could be incorporated. Mr. Harrison also noted that wheel stops would protect the proposed pole mounted light.

Mr. McClellan addressed Mr. Harrison's concerns about the lighting and noted that new LED lights allow for specific refinement of lighting direction to reduce glare. Mr. Harrison stated that the Board would need specifics on the lighting.

Mr. Harrison asked about the old chain link fence along the rear property line adjacent to the masonry garage should be replaced. Mr. McClellan replied yes.

Mr. Harrison asked if the AC units could be shifted further from the property lines. Mr. McClellan stated the configuration could be modified to be closer to the building.

Mr. Harrison asked about the landscaping and what type would be proposed as it was not shown on the plan. Mr. McClellan stated that information could be provided to the Board.

Mr. Harrison asked how the rearmost spaces in the parking lot would exist with no back up space. Mr. McClellan stated that there is 1.5 feet of room near the trash enclosure to allow for back up. He stated that the spaces could be reserved for compact cars and that management can govern parking in these spaces.

Mr. Harrison asked about refuse collection schedules and Mr. Rosenberg stated that it could be a condition of approval by the Board.

Questions from the public were then accepted.

Ms. Lisa Falcone, 25 Plymouth Street, asked if there would be a limit on the size of guest vehicles given how small the lot is. Mr. McClellan stated that would be a question for property management and noted that the lot would not be able to accommodate every vehicle. Ms. Falcone suggested that signage be installed to deter guests with larger vehicles.

Mr. John Falcone, 25 Plymouth Street, asked about the pole mounted lighting and how high they would be. Mr. McClellan stated that the proposed height would be determined after the lighting analysis was conducted. He stated that the poles would be up to 15 feet in height and they would be designed for the site.

Mr. Levy Brooks, 18 Plymouth Street, noted that there could be up to 30 people on the property. He asked if there was a plan to cap the number of residents in the building. Mr. Rosenberg stated that the planner would address this point.

Mr. Brooks asked what time of day refuse collection would occur. Mr. McClellan stated that would be scheduled by the building management but could be stipulated by the Board condition.

Mr. Kurt Cozart, 26 The Crescent, asked about the storm water management of the site, noting that the property slopes rearward towards the rear of his property. Mr. McClellan reviewed the drainage and noted that they would comply with the comments of the Board Engineer. He stated that a dry well system would be installed and managed. Mr.

Cozart noted that the chain link fence is located on his property, but that it could be removed.

Mr. Charles Marsh, 30 The Crescent, asked whether research had been conducted to determine if there was a need for 600-800 sq. ft. luxury apartment units in the area. Mr. Rosenberg stated that the engineer would not be able to respond to this question.

Questions from the Board were then accepted.

Ms. Baggs asked for a review of the elements along the rear property line. Mr. McClellan reviewed the elements along the rear property in detail, noting the location of garages and sheds on the adjacent property to the rear. Mr. Cozart confirmed the location of the shed on his property to the rear.

Mr. Fleischer asked if the northwest corner of the parking area at the rear of the lot would be landscaped as it was not indicated on the plan. Mr. McClellan replied yes.

Ms. Baggs asked if the amount of impervious would be more or less than existing. Mr. McClellan reviewed the plans and noted there would be a 12% increase in impervious coverage.

Mr. Harrison noted that the plans were confusing as presented as existing site plan information was shown in faint lines on the plan.

Mr. Rosenberg requested a brief recess to consult with the applicant before proceeding.

The Board took a recess from 11:00pm to 11:05pm.

Upon returning, Mr. Rosenberg requested that the application be carried so that the applicant can address the comments presented by the Board.

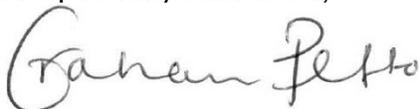
The Board agreed to the request to carry the application and Mr. Harrison announced that the application would be continued to the June 21, 2017 meeting of the Board.

Mr. Harrison suggested that the applicant discuss concerns with the neighbors to address some of the identified issues.

ADJOURNMENT

A motion to adjourn was offered by Mr. Fleischer, seconded by Mr. LaVail. The meeting was adjourned at 11:15pm, April 26, 2017.

Respectfully submitted,



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