



Graham Petto, P.P., AICP
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MINUTES OF THE BOARD OF ADJUSTMENT May 10, 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, Ms. Chowaneic, Mr. McCullough, Mr. Sullivan and Mr. Petto. Mr. Allen and Mr. Reynolds were absent. Mr. Moore, Mr. LaVail, Ms. Daye and Mr. Silver were excused.

APPROVAL OF MINUTES:

Mr. Harrison introduced the minutes of the April 19, 2017 Board meeting. He noted a few edits to the minutes as presented. Mr. Fleischer also noted some edits to the minutes.

A motion was made by Mr. Fleischer, seconded by Mr. McCullough to approve the minutes of the April 19, 2017 meeting, as amended. The minutes were approved unanimously, with Ms. Baggs and Ms. Chowaneic abstaining.

Mr. Harrison introduced the minutes of the April 26, 2017 Board meeting. He noted a few edits to the minutes as presented. Ms. Baggs also noted a few edits.

A motion was made by Mr. Fleischer, seconded by Ms. Baggs to approve the minutes of the April 26, 2017 meeting, as amended. The minutes were approved unanimously with Ms. Chowaneic and Mr. McCullough abstaining.

OLD BUSINESS:

Resolution for App. 2494: 2 Chester Road. Mary Jane Weldon. *Bulk variance for front yard setback for second floor addition.*

Mr. Harrison introduced the resolution. A motion was made by Mr. Fleischer, seconded by Mr. McCullough to approve the resolution as submitted. The resolution was approved unanimously with Ms. Baggs and Ms. Chowaneic abstaining.

Resolution for App. 2495: 29 Afterglow Way. Mark Green & Kristen Poppele. *Bulk variance for front yard setback of corner property for rear deck addition.*

Mr. Harrison introduced the resolution. A motion was made by Mr. Fleischer, seconded by Mr. McCullough to approve the resolution as submitted. The resolution was approved unanimously with Ms. Baggs and Ms. Chowaneic abstaining.

Resolution for App. 2498: James Podvesker. 44 Harvard Street. *Bulk variance for rear yard setback of one-story addition.*

Mr. Harrison introduced the resolution. A motion was made by Mr. Fleischer, seconded by Mr. McCullough to approve the resolution as submitted. The resolution was approved unanimously with Ms. Baggs and Ms. Chowaneic abstaining.

Resolution for App. 2499: Scot & Sabrina Formey. 7 Linden Avenue. *Bulk variance for side yard setback of two-story addition.*

Mr. Harrison introduced the resolution. A motion was made by Mr. Fleischer, seconded by Mr. McCullough to approve the resolution as submitted. The resolution was approved unanimously with Ms. Baggs and Ms. Chowaneic abstaining.

Resolution for 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 resolution. A motion was made by Mr. Fleischer, seconded by Ms. Baggs to approve the resolution as submitted. The resolution was approved unanimously with Mr. McCullough and Ms. Chowaneic abstaining.

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

Mr. Harrison introduced the resolution. A motion was made by Mr. Fleischer, seconded by Ms. Baggs to approve the resolution as submitted. The resolution was approved unanimously with Mr. McCullough and Ms. Chowaneic abstaining.

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

Chair Harrison recused himself from consideration of the application.

Mr. Fleischer introduced the application. Present on behalf of the applicant was attorney Alan Trembulak. Mr. Sullivan noted that the Board has only four eligible members in attendance for the application.

Mr. Fleischer stated that the applicant could wait to proceed in hopes that another member of the Board would arrive. Mr. Trembulak stated that the applicant would agree to wait.

NEW BUSINESS:

App. 2501: 75 Montclair Avenue. Deron & Athena Siddons. *Bulk variance of front yard setback for new porch addition to corner property*

Chair Harrison returned to the meeting. He introduced the application. Present for the application was Deron Siddons, owner of the property and Erik Schultz, architect for the applicant.

Mr. Schultz reviewed the application for the Board. He noted that the proposal is to remove the existing, non-original sunroom and replace it with an open covered porch. He noted that the proposed porch requires front yard setback variances as the property is a corner lot.

Questions from the Board were then accepted.

Mr. McCullough noted that proposed porch includes stairs to the front of the dwelling and Montclair Avenue. He asked where the stairs are now for the existing sunroom. Mr. Schultz noted that they are located at the driveway to the side of the sunroom.

Ms. Baggs asked if there used to be an open porch on the dwelling. Mr. Siddons replied yes noting that he does have an old photo of the property with the former front porch. Ms. Baggs noted that it will be beneficial to restore the historic porch to the house. Mr. Siddons noted that previously the dwelling was a 5-family dwelling.

Mr. Fleischer asked if the applicant would adhere to the proposed conditions from the Historic Preservation Commission, which provided a memo to the Board. Mr. Schultz replied yes. Mr. Fleischer asked specifically with respect to the recommended use of natural stone. Mr. Schultz replied yes that natural stone would be used.

Mr. McCullough asked if the existing base of the dwelling was stone on all sides. Mr. Schultz replied yes noting it was the original foundation.

Mr. McCullough asked if there would be a walkway to the sidewalk from the porch entry stair. Mr. Schultz replied yes. Mr. Harrison asked if the walkway would be straight to the sidewalk. Mr. Siddons replied that it most likely would be straight, although it has not been decided.

Mr. Fleischer asked about the proposed extension of the porch towards Columbus Avenue, beyond the existing wall of the house. Mr. Schultz stated that the configuration of the porch was designed so that the entry to the porch would be centered between the proposed columns of the porch, with the entry to the house.

Mr. Harrison asked for a clarification of the proposed front yard setback from Columbus Avenue. Mr. Schultz reviewed the requested setback.

Comments from the Board were then accepted.

Mr. McCullough stated he would be in favor of the application.

Ms. Chowaneic stated she would be in favor of the application and that it was a good addition to the dwelling.

Mr. Baggs noted that the proposed porch projection is less than the existing sunroom into the front yard along Montclair Avenue. She also noted that the restoration of the porch on the dwelling a benefit to the neighborhood and there are no detriments of the application. She stated she would be in favor.

Mr. Harrison stated he would be in favor. He noted that the setback from Montclair Avenue is greater than the existing and that the Columbus Avenue setback is squared to the existing house. He stated that the applicant should comply with conditions #2 and #3 of the memo from the Historic Preservation Commission. He also noted that natural stone should be used.

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

OLD BUSINESS:

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

Chair Harrison recused himself from the application. Mr. Fleischer re-introduced the application. He noted that no additional members have arrived to hear the application, and the Board only has 4 eligible members.

Mr. Trembulak requested that the Board hold a special meeting to hear the application. The Board agreed to the applicant's request and determined that a special meeting date of May 22, 2017 would work for all members in attendance at the meeting this evening.

Mr. Fleischer stated that all Board members are to be telephoned for the May 22 date to ensure a sufficient number of eligible members would be in attendance.

A motion was made by Ms. Baggs to carry the application to a Special Meeting of the Board of Adjustment to be held on Monday May 22, 2017 at 7:30pm in the Municipal Building. The motion was seconded by Ms. Chowaneic. The motion was approved by Mr. Fleischer, Ms. Baggs, Mr. McCullough and Ms. Chowaneic.

NEW BUSINESS:

App. 2503: Stonebridge Road. Joe Gorga. *Bulk variances for construction of a new single family dwelling on vacant lot.*

Chair Harrison returned to the meeting. He introduced the application. Present for the applicant was attorney Alex LaTorraca and architect/planner Anthony Garrett.

Mr. Garrett reviewed the submitted exhibits for the application:

- A-1: A reduced copy of the updated site plan, dated May 8, 2017
- A-2: A colored site plan with trace overlay and graphic overlay of the dwelling, dated May 10, 2017
- A-3: A colored rendering of the site plan
- A-4: A colored front elevation of the proposed dwelling
- A-5: A photo array of adjacent properties in the area of the subject property

Mr. Garrett presented architectural testimony on the application. He reviewed the proposed plans for the site. He noted that the property is heavily wooded and undeveloped. He stated that the proposed dwelling would be located on a level spot on the site. He noted that the proposed dwelling would comply with the required front yard setback from both Stonebridge Road and Valley Way.

Mr. Garrett reviewed the submitted exhibits for the Board. He noted that the proposed additional stories were needed to maintain an 8% slope of the driveway to the garage level of the dwelling. He reviewed the requested variances for the height of the retaining walls on each side of the driveway.

Questions from the Board were then accepted.

Ms. Baggs asked for a review of the frontage of the property along Valley Way and Stonebridge Road. Mr. Garrett reviewed the frontages. Ms. Baggs asked if the driveway to the dwelling could be from Valley Way instead of Stonebridge Road. Mr. Garrett stated that the dwelling is oriented towards Stonebridge Road and noted that the adjacent property has a driveway to Stonebridge Road.

Mr. Fleischer noted that the proposed garage level is necessitating the number of variances sought by the applicant. He stated that the driveway could be from Valley Way which would eliminate some of the variances.

Mr. Fleischer asked if the proposed retaining walls could be stepped back as required under the ordinance. Mr. Garrett stated the walls could comply with the ordinance, but that the installation would be more invasive on the site.

Mr. McCullough asked if the proposed dwelling would be listed for sale. Mr. Garrett replied yes.

Mr. McCullough asked about the proposed ½ story attic level and if it would be occupied space. Mr. Garrett replied that the attic would be for storage only, accessed by a pull down stair. Mr. Garrett also noted that the dwelling has been designed so that an elevator could be added to access the other levels of the dwelling.

Mr. McCullough asked for a review of the main entry to the home. Mr. Garrett noted that a stair is proposed from the driveway/garage area in addition to a walkway/stairway from the street.

Mr. Harrison asked about the driveway from Valley Way and noted that there are other driveways in the Township that slope down to a dwelling. Mr. Garrett stated that the preference of the applicant was to not slope the driveway to the house. Mr. Harrison noted that some of the requested variances could be avoided with such a modification.

Mr. Harrison asked about the depth of the Township water line that traverses the property. Mr. Garrett stated it was not known.

Mr. Harrison asked about the memo on the submitted plans provided by Board Engineer Tom Watkinson. Mr. Garrett reviewed Mr. Watkinson's memo and noted how the plans would address the comments of the Board Engineer.

Mr. McCullough asked if other dwellings in the neighborhood exceeded 2 ½ stories. Mr. Garrett stated that he could not state specifically how many stories other dwellings in the area were, but noted that other homes were grander and that the proposed dwelling would fit within the neighborhood.

Ms. Chowaneic asked about the fencing along the top of the retaining wall that would be stepped back. Mr. Garrett stated that it would be stepped back and that the intervening space would be landscaped.

Mr. Fleischer clarified that the applicant would agree to a conforming retaining wall height with the required step backs under the ordinance. Mr. Garrett replied yes.

Questions from the public were then accepted.

Emily Frieze-Kemeny, 115 Stonebridge Road, asked for a review of the proposed retaining wall and which portion would be visible from her property. Mr. Garrett reviewed the retaining wall and noted that it would not be visible from adjacent properties. He noted only the guardrail atop the retaining wall would be visible.

Ms. Frieze-Kemeny asked about the impact of storm water on her adjacent property particularly with respect to the trees. Mr. Garrett noted that 23 trees are proposed to be

removed from the site, but that many trees will remain. He also reviewed the proposed storm water management system for the property.

Mr. Jake Kemeny, 115 Stonebridge Road, asked about the re-grading of the property and the level of confidence in the proposed storm water system. Mr. Garrett noted that there will be two large seepage pits installed to collect storm water from the site. He stated there would be no additional storm water discharge from the development.

Mr. Kemeny asked what the height of the house would be above grade from the façade of the garage elevation. Mr. Garrett stated that it would be about 45 feet from the garage entry to the peak of the roof on this façade alone.

Mr. Kemeny asked if the proposed retaining walls would be visible from his property. Mr. Garrett replied no, noting that the walls are proposed to be parallel to the entry garage along the driveway.

Mr. Adam Laboz, 123 Stonebridge Road, asked about privacy between his property and the subject property with the removal of 23 trees. Mr. Garrett stated that the house is still setback from the adjoining property line, and noted that there are a number of remaining trees on the site.

Mr. Garrett then presented planning testimony on the application. He noted that the requested variances by the applicant are due to the steep sloping of the lot which presents a hardship condition. He noted that the applicant can agree to meet the required height of the ordinance to eliminate the requested variance. He also noted that the proposed retaining walls can be modified to be stepped back to meet the requirements of the ordinance.

Mr. Garrett stated that the applicant would agree to all of the requested conditions of the Board Engineer.

Questions from the Board were then accepted.

Ms. Baggs asked about the foot print of the proposed dwelling, and noted that Mr. Garrett testified earlier that the small footprint is a benefit of the application to limit disturbance on the site. She asked if there was anything preventing the applicant from expanding the footprint of the house. Mr. Garrett noted that the property is a through lot, with frontage on both Valley Way and Stonebridge Road and no true rear yard. He stated that this would present limitations for expansion.

Ms. Chowaneic asked for a review of the proposed retaining walls and how they would be visible. Mr. Garrett reviewed the location and extent of the retaining walls.

Mr. Harrison reviewed the variances sought by the applicant. He asked if the applicant would agree to meet the required height of 35 feet. Mr. Garrett replied yes. Mr. Harrison asked if the applicant would agree to step back the fencing at the top of the retaining wall to comply with the ordinance. Mr. Garrett replied yes. Mr. Harrison asked if the applicant would agree to terrace the retaining walls to meet the requirement of the ordinance. Mr. Garrett stated that this could be a condition of the approval, or the applicant could agree to the Board's request.

Mr. Harrison noted that the only remaining variance requested by the applicant is the number of stories variance.

Final comments on the application were taken from the public.

Emily Frieze-Kemeny, 115 Stonebridge Road, stated that the proposed site development will impact the neighborhood and their adjacent property significantly. She stated that they were very concerned about adverse impacts of the development. Ms. Kemeny asked for clarification of the notice and if the mailings were in fact sent. Mr. Petto reviewed the affidavit of service, and identified the certified mail receipt showing notice had been sent by the applicant to 115 Stonebridge Road.

James Kemeny, 115 Stonebridge Road, asked for a review of the south facing façade and the proposed height at this location. Mr. Garrett reviewed the design and proposed height at this façade. Mr. Kemeny stated that the proposed dwelling is very tall and will be detrimental their adjacent property.

Jerome Sahlman, 284 Upper Mountain Avenue, asked how tall the proposed dwelling would appear from a vantage point downhill from the proposed dwelling. Mr. Garrett noted that the proposed grading would limit visibility of the garage level from the street and adjacent properties.

Final comments from the Board were then accepted.

Ms. Baggs stated that the application was difficult to consider. She noted that the applicant has created the situation to request the variances through the selected design. She stated that the hardship of the sloping site does not justify located the driveway from Stonebridge Road, when the driveway could enter from Valley Way. She stated that while there are two front yards on the through lot, there is a large buildable area on the site. She stated that the benefits of the proposed designs small foot-print to minimize disturbance and tree removal are mitigated by the fact that there is no limit on future expansion. She stated that the property could be developed without the requested variance and stated she would not be in favor.

Mr. Fleischer stated that the proposed small footprint of the dwelling was good for the steeply sloped site which reduces the impact. He stated that the driveway entry from Valley Way could mitigate the impact of the height of the dwelling. He noted that the dwelling could still front Stonebridge Road and guests could enter from Stonebridge. He stated that a condition that does not permit expansion of the dwelling without returning to the Board could be considered. He said he could be in favor of the requested number of stories variance with conditions.

Mr. McCullough stated that the site is difficult to develop given the slope. He stated that the driveway placement is difficult to consider, given that the property will not be owner occupied and is planned for sale. He noted concerns by the neighbors about trees and storm water management and noted that trees and shrubbery could be planted along the property to better screen the new dwelling and provide a natural barrier. He noted that privacy is a big issue that could be easily solved with plantings.

Ms. Chowaneic state that she agreed with Ms. Baggs' comments. She stated that she would appreciate a condition of no future additions without returning to the board. She noted that the site is difficult to develop and that she may be in favor with conditions, including one for landscaping to screen the new dwelling.

Mr. Harrison noted that the applicant has agreed to revise the plans to conform to the required height of the zone. He also noted that the applicant has agreed to conform the fence mounted atop the retaining wall to the ordinance. Mr. Harrison also stated that the proposed retaining wall should conform to the ordinance.

Mr. Harrison stated that the difficulty of the application was the number of stories variance. He noted that the Board has traditionally reviewed variance requests for 3 ½ stories, with a first level garage. However, he noted this application is for a 4 story variance which could set an unfortunate precedent. He stated that there are many options to better fit the dwelling on the site.

Mr. Harrison stated that the Board could vote to approve the application with a list of conditions. He stated that concerns remain about landscaping and privacy along the northern property line and the Township water lines that are located beneath the subject property.

Mr. Fleischer stated that the applicant should redesign the proposed dwelling to be only 3 ½ stories to better address the Board's concerns.

Mr. Harrison asked if the applicant would be willing to come back. Mr. Garrett stated that the applicant would agree to modify the plan and return.

Mr. Harrison noted that the proposed garage could be raised a level and located where the now proposed guest suite is located.

A motion was made by Ms. Baggs to carry the application to the Special Meeting of the Board of Adjustment to be held on May 22, 2017 in the Municipal Building. The motion was seconded by Mr. Fleischer and approved unanimously.

App. 2508: 160 Orange Road. Monika & Mido Emad. *Bulk variance for addition to single family dwelling. (This application will be carried to the June 21, 2017 meeting)*

Mr. Petto announced that the applicant has requested to be carried to the June 21, 2017 meeting of the Board to allow time to complete all required notice. He announced that the application would be carried to the June 21, 2017 meeting.

App. 2509: 114 Upper Mountain Avenue. Nicole & Charbel Chalfoun. *Bulk variance for rear addition, rear yard setback. (This application will be carried to the June 21, 2017 meeting)*

Mr. Petto announced that the applicant has requested to be carried to the June 21, 2017 meeting of the Board to allow time to complete all required notice. He announced that the application would be carried to the June 21, 2017 meeting.

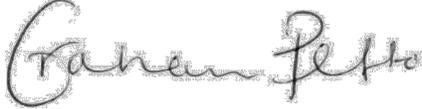
App. 2510: 425 Upper Mountain Avenue. Joseph & Maria Guarino. *Bulk variance of front and rear yard setback for addition to single family dwelling. (This application will be carried to the June 21, 2017 meeting)*

Mr. Petto announced that the applicant has requested to be carried to the June 21, 2017 meeting of the Board. He stated that the application would be carried with no further notice.

ADJOURNMENT

A motion to adjourn was offered by Mr. Fleischer, seconded by Ms. Baggs. The meeting was adjourned at 10:50pm, May 10, 2017.

Respectfully submitted,

A handwritten signature in cursive script that reads "Graham Petto". The signature is written in dark ink and is positioned above the typed name.

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