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## MINUTES OF THE BOARD OF ADJUSTMENT May 22, 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. Fleischer, Ms. Baggs, Ms. Chowaneic, Mr. McCullough, Mr. Allen, Ms. Daye, Mr. LaVail, Mr. Sullivan and Mr. Petto. Mr. Harrison, Mr. Reynolds and Mr. Moore were excused.

### **OLD BUSINESS:**

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

Mr. Petto introduced the application.

Mr. Petto noted that the applicant has submitted revised plans for consideration by the Board. Mr. Petto updated the Planning Memo that had been distributed to the Board accompanying the revised plans to note that the plans, as revised, no longer require a variance of the permitted maximum number of stories. He noted that the plans now conform to the requirements of the Township zoning ordinance and a variance is no longer required.

Anthony Garrett, architect and planner for the applicant, requested that a letter be provided to the applicant detailing that the plans are now in compliance. Mr. Petto stated that a letter would be prepared.

Mr. Fleischer also noted that the applicant should adhere to the comments provided by Board Engineer Tom Watkinson, as the property is located in a steep slope area. Mr. Garrett stated that the applicant would comply with Mr. Watkinson's comments.

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

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

Mr. Trembulak reviewed the past testimony to the Board on the application. He noted that the applicant proposes medical office use in 9,000 sq. ft. of the 10,000 sq. ft. building by Summit Medical Group. He noted that 1,000 sq. ft. of the building would be used by the current medical office located on the site.

Mr. Trembulak noted that the applicant proposes to lease off-site parking to accommodate the proposed medical office use. He stated a total of 36 off-street spaces would be provided, including the 19 on-site spaces on the subject property. Mr. Trembulak noted that testimony was previously provided by a parking consultant who noted that current medical office parking standards consider a need of 3.2 spaces per 1,000 sq. ft., which is less than required under the Township ordinance.

Mr. Trembulak then introduced Brian Natale, Vice President of Operations for Summit Medical Group, to discuss the proposed use of the space.

Mr. Natale stated that Summit Medical is a large physician owned practice with about 3,500 employees, 500 providers and 75 locations.

Mr. Natale stated that Summit Medical Group has agreed to lease space in the building on the subject property for seven years.

Mr. Natale reviewed the existing building and noted changes that would be made by Summit Medical to occupy the space. He stated that there would be no change to the footprint of the building, with only interior modifications. He noted that the second floor would require minor renovations to incorporate branding and other changes for patient experience. He stated that there would be no change to the total number of examination rooms, of which there are currently 11.

Mr. Natale stated that the second floor of the building would accommodate two practices that would be relocated from the immediate area. He stated that the first is an orthopedist, currently practicing in Montclair. The other practice is a neurologist that would relocate from Glen Ridge.

Mr. Natale stated that the neurologist practice would occupy one-half of the second floor of the building. He noted this practice currently has three doctors. He stated that the doctors maintain 30 hours in the practice office, and there may be limited times when all three are in the office at once. He stated that most often only 2 doctors would be in the practice at one time. Mr. Natale noted that the neurologist practice would have 6 support staff members on-site at one time. Mr. Natale stated that the practice would have a patient volume of about 6 patients per hour.

Mr. Natale stated that the orthopedist would occupy the other half of the second floor of the building. He noted that the practice currently only has one doctor, but that there would be space for a total of 2 doctors in the practice. He stated that the practice would have a support staff of 5 employees. Mr. Natale stated that the practice would have a patient volume of about 6 patients per hour.

Mr. Natale stated that there were no immediate plans to occupy the first floor. He did note that the space would be occupied by 2 practices in the future. He stated that it would be a family medical practice with 2 doctors and 4 support staff. He stated that the anticipated patient volume would be 8 patients per hour.

Mr. Natale summarized the use of the building and noted that there would be a total of 20 patients per hour on-site. He noted that the majority of all visits to Summit Medical facilities are by appointment only. He stated that walk-ins would be to schedule future appointments.

Mr. Natale stated that the proposed parking by the applicant would support the demand of the proposed use by Summit Medical. He stated that the 19 on-site spaces would be for patients only and that staff would park off-site. He stated that Summit Medical Group would monitor staff parking to ensure parking is in accordance with the provided spaces.

Mr. Natale stated that should the orthopedist or neurologist not located within the building, only certain other types of practices could be accommodated within the building. Mr. Natale submitted Exhibit A-2 a list of practices that would be excluded from occupying the building due to incompatibility.

Questions from the Board were then accepted.

Ms. Baggs asked if the building had an elevator. Mr. Natale replied yes.

Mr. Allen asked about the parking study conducted by the parking consultant and how far the on-street parking availability was assessed. Mr. Trembulak noted that the parking consultant reviewed on-street spaces in the area of the subject property and on other side streets.

Ms. Daye asked if pediatrics were considered to be part of family practice and if they would be excluded from the building. Mr. Natale stated that pediatrics were considered to be separate from family medical and noted that they could be excluded from the building.

Ms. Chowaneic asked how the list provided in Exhibit A-2 was developed. Mr. Natale stated that the list of excluded practices was developed based upon the accommodations of the building and that these practices would not work in the building.

Ms. Chowaneic asked about staff members who may have a disability and the on-site accessible parking spaces. Mr. Natale stated that Summit Medical Group could not restrict an employee from using the on-site accessible space in the parking area of the subject property.

Mr. Fleischer asked for a review of the square footage of the building and space dedicated to each use. Mr. Natale noted that on the second floor, the orthopedist and the neurologist would each occupy about 2,500 sq. ft. He stated that the first floor would have about 3,000 sq. ft. dedicated to the future family medical practice.

Mr. David Genova, of BG Holdings, then added further testimony, clarifying that the first floor of the building also contains 1,000 sq. ft. of mechanical space and 1,000 sq. ft. for the current medical office tenant, Dr. Vincent Giampapa. He stated that the first floor would not support a second full practice due to the mechanical space limitations.

Mr. Fleischer asked how many total practices would be in the building. Mr. Genova stated that 5 spaces would be requested, as two smaller practices could be accommodated in the first floor space. However, he stated that four could be the total number.

Mr. Fleischer noted that the testimony by Summit Medical Group indicated that there would be a total of 20-21 doctors and staff on-site. However, he noted that the existing medical office of Dr. Giampapa also has 3 additional doctors and staff, bringing the total on-site to 23-24 doctors and staff. He noted that the applicant is only proposing to

provide 17 off-site parking spaces for staff, which is insufficient given the number on-site.

Mr. Fleischer also noted that there would be more than 19 patients on-site, as testified by Summit Medical and in consideration of the existing medical office use. He stated that more parking needs to be provided.

Mr. Trembulak stated that the expectation is that there will never be more than 17 doctors and staff on-site at one time.

Mr. Fleischer stated that the parking provided should cover the entire use of the building, not just Summit Medical Group.

Dr. Vincent Giampapa was then introduced to testify. He noted that his practice is not open every day of the week, which would reduce daily parking demand.

Mr. Allen asked for a review of the total number of doctors and staff on-site. Mr. Genova summarized the numbers, indicating a total maximum of 24 on-site.

Mr. Trembulak stated that the applicant can agree to provide 21 off-site parking spaces. Mr. Genova stated four additional spaces could be provided in the Orange Road parking deck.

Ms. Chowaneic asked about infectious disease practices, which she noted could be high volume. Mr. Natale stated that volume of these practices is similar to the proposed family medical practice. He stated that pediatrics could be eliminated from the building as a proposed use.

Questions and comments from the public were then accepted.

Karyn Scholack, 93 Valley Road, stated that she had four concerns about the application. Ms. Scholack introduced exhibits O-1, O-2, and O-3 during her comments; a series of photographs of the area around the subject property.

Ms. Scholack stated that parking is a concern in the area. She noted that testimony has focused on parking for patients and staff. However, she noted that staff will most likely park on-street as it is most convenient to the building location. She stated that there are no restrictions nor time limits for on-street parking in the area. Ms. Scholack referred to O-2, a photo of Valley Road, and noted that Valley Road is quite difficult to cross due to its level of traffic. She stated that parking for staff across the street would not be used. She also noted that parking for area residents on-street in the area is already very limited.

Ms. Scholack stated that the traffic in the area would increase with the proposed intensity of the medical office use. She noted that cars would queue along Valley Road, waiting to turn into the parking lot of the subject property. She stated that it is very difficult to exit from adjacent residential driveways currently and that intensifying the use would make it more difficult. Ms. Scholack referred to exhibit O-3 a photo of the driveways of the subject property.

Ms. Scholack stated that the impact of the proposed use on the adjacent neighbors would be detrimental. She stated that more intense medical office use would result in additional noise. She noted that the driveway to the parking area on the subject

property is very close to her driveway and home. She stated that the first floor tenant in her dwelling is quite close to this area and would be impacted. Ms. Scholack stated that additional deliveries to the site, as well as increased garbage pickup would be further detrimental.

Ms. Scholack noted that the subject property is located in a residential zone and is a non-conforming use. She stated that the building is unique as it was not constructed as a residence. She questioned whether the proposed expansion of the medical office use of the building was beneficial to the community. Ms. Scholack noted that the prior approval by the Board of Adjustment was granted because the proposed use was less intensive than the use prior. She noted that the application now before the Board is to increase intensity of the medical office use, which is inconsistent with the prior approval.

Mr. Trembulak asked Ms. Scholack how long she has lived in her property. Ms. Scholack stated since September 2016.

Mr. Trembulak asked what day of the week the photos were taken. Ms. Scholack stated they were taken on weekdays.

Ms. Daye asked if the photos were taken before 4pm on weekdays. Ms. Scholack replied yes.

Mr. McCullough asked about deliveries to the site. Mr. Natale stated that deliveries to all locations of Summit Medical are made by an internal private carrier. He said that deliveries are made to each location by courier, seven days per week as needed. He stated that garbage will be picked up from the site but that there is no anticipation of a significant increase in volume of trash. He noted that there may be other deliveries by UPS.

Mr. McCullough asked about normal traffic deliveries and trucks in the area. Ms. Scholack stated that often delivery vehicles double park on Valley Road, causing further traffic problems. Mr. McCullough asked if there are police vehicles exiting the station along Valley Road. Ms. Scholack replied yes.

Dr. Giampapa stated that deliveries are supposed to come through the back of the building, as currently scheduled. He stated that it is against current office policy at the building for deliveries to be made from Valley Road. He stated that in 25 years at the location, he has no record of any accidents related to vehicles entering or exiting the property.

Ms. Scholack stated that the proposed expansion of the medical use is not appropriate for the area. She stated that the residents do not benefit from the expanded use.

Dr. Giampapa stated that residents have a right to stay with their physicians in the community. He stated that if this location is not provided to these area physicians, they will relocate out of town. He stated that the continuity of care is important to people who have physicians locally.

Mr. Trembulak then summarized the application for the Board. He noted that the subject property has been developed with an office building since 1954. He stated that the property has been used for medical office since 1989. Mr. Trembulak noted that

there are other commercial uses in the vicinity of the property, including medical offices in the area.

Mr. Trembulak noted that the 1989 and 1992 resolutions from the Board of Adjustment concluded that the building on the subject property does not allow for residential use. He noted that both medical office and general office use would have the same demand of use of the property. He noted that the building is not increasing in size and that the applicant agrees to only 11 exam rooms on-site. He noted that the applicant will provide 19 on-site spaces and can provide a maximum of 24 off-site spaces.

Mr. Trembulak stated that the applicant seeks to modify the prior conditions of approval by the Board to allow no more than 5 medical practices and operate with emergency hours on weekends only. He noted that the applicant agrees to exclude medical uses listed on Exhibit A-2, as well as diagnostics, labs and pediatrics.

Mr. Trembulak stated that the applicant agrees to return for site plan approval and will agree to provide an annual certification of off-site parking spaces.

Final comments from the Board were then provided.

Ms. Baggs stated that it was difficult to justify the large expansion of the medical office use given the limited parking at this site and the need for so many off-site parking spaces. She stated that it was difficult to justify the expansion due to the number of required off-site parking spaces. She stated that the increased use would be a nuisance to the neighborhood and outweighs any incremental benefit of providing a few additional medical practices in the area. She stated that the applicant has not met the requirements for the negative and positive criteria and that she would not be in favor.

Mr. Allen noted that there is insufficient parking for the proposed uses. He stated that it is important to keep local doctors here in Montclair. Mr. Allen stated that the proposed intensification does seem large for the site, however, he noted that it could be accommodated.

Ms. Chowaneic stated that Valley Road is very busy and often there are lots of parked cars on the street in the area and also parking on-street on side streets as well. She stated that the area is already very congested. She noted that while local continuity of care is important, she noted that both of the medical practices discussed for relocation are already in the area.

Mr. LaVail stated that the area is already congested with traffic and that the application represents a re-intensification of use on the site. He stated he would not be in favor.

Mr. McCullough agreed that he had concerns about traffic in the area which is already heavily congested. He stated that, however, the building will be reused in some way and that the immediate area will always be congested. He stated that the applicant has shown a willingness to make adjustments to the proposal and that he is leaning in favor of the application.

Ms. Daye stated that a thorough traffic analysis has not been completed for the application and that she would not be in favor. She stated that traffic in the area is already an issue and that this could be more intense for the area. She also noted that additional crosswalks would be needed.

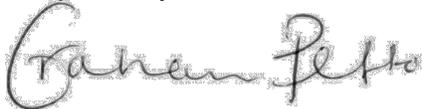
Mr. Fleischer stated that the building needs to be used. He noted that previously the building was used as a synagogue. He stated that the building was originally designed as an office building. He noted that the difference between office use and medical use is the frequency of visitors. He noted that the pattern of traffic is different for general office use, where employees come to work in the morning and depart in the evening. He stated that the applicant has made significant efforts to address concerns. However, he noted concern that the 1992 resolution sought to control the intensification of the medical office use. He stated that the intensification is not beneficial in the area, which is already crowded. He stated that the proposal is too much for the site and that he would not be in favor.

Ms. Baggs made a motion to deny the application, seconded by Ms. Chowaneic. The application was denied with Mr. Fleischer, Mr. LaVail, Ms. Baggs, Ms. Chowaneic and Ms. Daye voting in favor and Mr. Allen and Mr. McCullough voting against.

### **ADJOURNMENT**

A motion to adjourn was offered by Mr. LaVail, seconded by Ms. Baggs. The meeting was adjourned at 9:30pm, May 22, 2017.

Respectfully submitted,

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

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