



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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## MINUTES OF THE BOARD OF ADJUSTMENT July 19, 2017

**ORDER:** The meeting was called to order at 7:43 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. Allen, Mr. Moore, Mr. LaVail, Mr. McCullough, Ms. Daye, Mr. Sullivan and Mr. Petto. Ms. Chowaneic was excused.

### **NEW BUSINESS:**

**App. 2514: 121 Norwood Avenue. Ed Rappoport.** *Bulk variance for front porch addition.*

Chair Harrison introduced the application. Present for the application was Margaret Schmidt and Ed Rappoport.

Mr. Rappoport summarized the application for the Board. He noted that the existing front porch on the dwelling is in poor condition with mildew and wood rot. He stated that the porch is a blight to the house.

Mr. Rappoport introduced Exhibit A-1, a series of photographs of the existing dwelling and porch.

Mr. Rappoport also noted that a gable roof is proposed to eliminate water issues, which are a problem of the existing porch configuration.

Questions from the Board were then accepted by the applicant.

Mr. Fleischer noted that the existing porch extends 7 feet 9 inches from the front of the dwelling and the proposed porch will extend 8 feet 6 inches, a change of 9 inches. Mr. Rappoport replied yes. Mr. Fleischer asked if the increased width of the porch was for the addition of a closet to the porch space. Mr. Rappoport replied yes.

Mr. Fleischer asked if the proposed addition would be considered a room rather than an enclosed porch. Mr. Rappoport stated that the space would serve more as an entry vestibule or mudroom.

Ms. Baggs asked if the existing enclosed porch was also a vestibule. Mr. Rappoport replied yes, noting that the room was insulated and a four-season space with heat.

Final comments from the Board were then accepted.

Ms. Daye stated that the design of the proposed porch addition was aesthetically pleasing. She stated that she would be in favor of the application.

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

Mr. LaVail stated that he would be in favor of the application.

Mr. Moore stated that he would be in favor.

Ms. Baggs stated that she would be in favor of the application.

Mr. Fleischer stated that he would be in favor.

Mr. Reynolds stated he would be in favor.

Mr. Allen stated he would be in favor.

Mr. Harrison stated that he would be in favor of the application. He noted the setback of the two adjacent dwellings of the subject property, noting that one property fronts onto Elston Road not Norwood Avenue and is shielded from view. He stated that there would be no impact to the zone plan and no detriment to the public.

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

Following the application, Mr. Harrison recused himself from participation in the following application.

**App. 2505: 151 & 157-159 Forest Street. Erie Street Partners, LLC.** *Public hearing continued from June 21<sup>st</sup> on use variance and site plan application.*

Mr. Fleischer assumed the role of Chair for the application. Mr. Fleischer introduced the application.

Present for the applicant was attorney Alan Trembulak. Mr. Trembulak introduced the application which was continued from the last Board meeting on June 21, 2017. Mr. Trembulak summarized the application for the Board, noting that the applicant planned to upgrade the buildings and parking areas of the existing property without any building additions. He noted that the Board heard previous testimony from architect Paul Sionas and the applicant Mr. Steven Plofker.

Mr. Trembulak then introduced Mr. Craig Peregoy, traffic consultant for the applicant.

Mr. Peregoy reviewed the site and the proposed uses. Mr. Peregoy discussed the traffic generation in detail, noting that the site as proposed was most similar to a business park, with a mix of business uses. Mr. Peregoy reviewed the requirements of the Institute of Transportation Engineers for business parks.

Mr. Peregoy noted that the proposed square footage of the space at the site as a business park would generate 26 morning peak hour trips and 23 evening peak hour trips. Mr. Peregoy compared these numbers with those for general office use, which would generate 22 morning peak hour trips and 23 peak hour trips.

Mr. Peregoy noted that the business operations proposed for the site would be quiet during the day, with no weekend business hours.

Mr. Peregoy stated that the applicant has provided 2.92 parking spaces per 1,000 sq. ft. where the Township ordinance requires 4 spaces per 1,000 sq. ft. He stated that the ITE recommends 2.92 parking spaces per 1,000 sq. ft.

Mr. Peregoy summarized his testimony noting that the proposed plan will simplify traffic on the site via proposed one-way access from Forest Street exiting to Erie Street. He also noted that the proposed uses will be less intensive than the current uses during weekend periods.

Questions from the Board were then accepted.

Ms. Baggs asked how many spaces currently exist on the property. Mr. Trembulak noted that there are currently 35 spaces on site and 7 spaces on the NJ Transit right-of-way that are leased by the property. Mr. Trembulak noted that under the proposed plan one additional on-site space will be created, resulting in 36 spaces and the 7 leased spaces will be retained.

Ms. Baggs asked if the estimated parking demand would be less with the new use. Mr. Peregoy replied yes.

Mr. Fleischer noted that Forest Street is very narrow and that there is on-street parking in the area. Mr. Fleischer asked for clarification about the proposed traffic in the area. Mr. Peregoy stated that the intensity of traffic in the area would be reduced from the intensity of the current uses on the site. He also noted that the one-way circulation proposed for the site would eliminate egress onto Forest Street from the site, reducing impacts. Mr. Peregoy also noted that truck traffic would be eliminated from the site under the proposed uses and that use of the property on the weekends would also be reduced.

Mr. Fleischer asked about Erie Street and if it was a public street through to Walnut Street. Mr. Trembulak stated that the applicant has discussed the street with the Township Engineer who stated it is a public street. Mr. Fleischer stated that there should be further clarification by the applicant with the Engineer regarding the use of Erie Street as a public street.

Questions from the public were then accepted.

Adrianna O'Toole, 48 South Willow Street, stated that she was opposed to the requested parking variance. She asked if the developer was proposing to locate charging stations in the parking area. Mr. Trembulak replied no. Ms. O'Toole noted that parking in the area is already very tight.

Frank Rubacky, 398 Upper Mountain Avenue, asked if the parking analysis had distinguished between different office types at the rate of 4 spaces per 1,000 sq. ft. Mr. Peregoy noted that the rate used in the analysis was for general office, not distinguished by type. Mr. Rubacky asked about trends in parking for office uses. Mr. Peregoy stated that there have been trends showing parking demand for office uses has been decreasing as employers allow for additional flexibility and teleworking options.

Ruth Perretti, 64 ½ Chestnut Street, asked about the impact of parking on Forest Street of the application. Mr. Peregoy noted that based on the parking analysis, there is

sufficient on-site parking for the proposed uses and there will be no impact to the on-street parking. Ms. Perretti asked if off-hour parking would be allowed in the parking lot for use by area residents. Mr. Steven Plofker stated that they have had discussions with the Montclair Cooperative School about allowing parking to alleviate peak parking demand. He also stated that they would be willing to consider parking for the neighbors at the property.

Ms. Baggs asked if bike racks or bike storage would be provided. Mr. Plofker stated that racks and storage could be provided and also noted that an electric vehicle charging station could also be provided. Mr. Trembulak noted that a bike rack is shown on the submitted plans to the Board.

Ms. Daye asked if charging stations were a requirement in the Township ordinance. Mr. Plofker replied no.

Mr. Plofker also noted recent trends he has experienced as a building owner with office tenants in Montclair. He noted that there has been a trend of commutation from New York City to Montclair for employment, particularly for media, technology and web-based industries. He also noted that car ownership has been declining with the proliferation of ride-sharing services like Uber.

Mr. Trembulak then introduced Mr. George Williams, professional planner for the applicant.

Mr. Williams summarized the application. He noted that the proposed lot line adjustment between the properties would be a benefit as it would allow for fenestration along the northern façade of the commercial building at 151 Forest Street. Mr. Williams reviewed all the variance relief sought by the applicant.

Mr. Williams introduced and reviewed for the Board the following exhibits: Exhibit A-4, an aerial photo of the property with zone information and Exhibit A-5, a 2-page photo survey of the property.

Mr. Williams noted that the application improves the existing non-conforming uses in the zone and is a benefit to the public.

Questions from the Board were then accepted.

Ms. Baggs asked about the lot line adjustment's impact on the adjacent multifamily dwelling at 157-159 Forest Street. Mr. Williams stated that the proposed lot line change will be minimal to the dwelling and stated that the improvements of the northern façade, including additional windows, of the building at 151 Forest Street would be a benefit to the dwelling as this façade is visible.

Ms. Baggs asked about the intensification of the 4-family use at 157-159 Forest Street, as the lot would be reduced in size. Mr. Williams stated that there would be no detriment of the change and noted that a driveway access easement would be arranged between the two properties to preserve access to the off-street parking.

Mr. McCullough noted that the former businesses located at 151 Forest Street are being replaced with more professional businesses under the application. He asked if the area is becoming more urbanized and transitioning. Mr. Williams stated that an approval of this application by the Board would not urbanize the area. He stated that the

conversion of the existing non-conforming commercial uses to less intense commercial uses is a good planning approach. He stated that the proposed office use is better for the adjacent residential area compared to the former auto service, tow truck and warehouse uses at the subject property.

Questions from the public were then accepted.

Justin Fung, 141 Forest Street, asked if there would be any lighting improvements at the site. Mr. Williams replied yes. Mr. Fung asked if there would be parking available at the site, during off-hours for area residents. Mr. Plofker stated that would be evaluated on a case-by-case basis to ensure all parking demand is met.

Final comments from the public were then accepted.

Frank Rubacky, 398 Upper Mountain Avenue, stated that the Township's parking requirements have not been modified since 1999.

Ruth Perretti, 64 ½ Chestnut Street, stated that she is a longtime resident of the area. She stated that she is encouraged by the proposed new development of the site and believes it will be positive for the area. Ms. Perretti stated that parking will always be a concern, no matter what, in this area.

Mr. Trembulak then summarized testimony and proceedings on the application for the Board. He noted that the proposed improvements to the site, including curbing, new paving, ADA access, landscaping and lighting will be a benefit to the community while also reducing the intensity of the uses on the site.

Final comments from the Board were then accepted.

Mr. McCullough stated that the area surrounding the subject property is becoming a unique area in Montclair. He stated that the development change in the area is not a negative impact on the neighbors. He noted concern about traffic in the area but noted that the traffic study presented by the applicant intends to minimize the impact of the use. He stated he would be in favor of the application.

Mr. LaVail stated that he would be in favor of the application. He stated that he supports the improvements to the building and the site, which will make a difference for the neighborhood. He stated that plan will better accommodate parking on the site. He stated that overall the proposal is good and that this is a unique area of Montclair.

Mr. Moore stated that he agreed that this is a unique area of the Township. He stated he would be in favor of the application, noting the existing building is blighted. He stated that the benefit of off-hour parking would also be good for the neighborhood. He stated he would be in favor.

Ms. Baggs stated that the applicant has taken care to prove the impact of the development will be positive and noted that requested variances have no substantially negative impact. She noted that if approved the condition of the prior resolution to block up windows should be vacated or superseded.

Mr. Reynolds stated that the applicant provided a good explanation of the benefits of the application. He stated he would be in favor of the application and stated that the change of the neighborhood is very interesting.

Mr. Allen stated that the Forest Street area has seen much improvement over the years and that this application is another piece to the improvements. He stated that the proposed one-way traffic pattern is a good solution for the area. He stated he would be in favor.

Ms. Daye stated she would be in favor. She agreed the proposed one-way traffic pattern is an improvement. She stated that the shifting of the neighborhood is not a bad thing and that this application represents a good improvement.

Mr. Fleischer stated he would be in favor of the application. He noted that the proposed changes to the parking and traffic circulation have helped to reduce issues related to traffic. He stated that the exit to Erie Street and Walnut Street should be a condition of approval to mitigate any traffic impacts on Sylvan Place and Oak Place. He stated that the elimination of industrial uses was a benefit of the application, in addition to the on-site parking provided and elimination of the truck traffic. Mr. Fleischer also noted that he was encouraged by the shared parking discussion and that area residents should be allowed off-hours parking as first priority. He stated there would be no negative impact to the zone plan.

Mr. Sullivan summarized the conditions as stated by the Board:

1. The applicant shall obtain confirmation from the Township of Montclair, owner of Block 3307, Lot 40, located on Erie Street between Label Street and Oak Place that the lot may be traversed by vehicles operated by the public.
2. The prior condition imposed by resolution of the Planning Board dated September 9, 1985 mandating the window on the northerly side of the building on Lot 29 be permanently blocked is deemed superseded and inapplicable to this approval.
3. An easement shall be recorded in the Office of the Essex County Register retaining driveway access and use of the parking area for Lot 28 subject to review and approval by the Board Attorney.
4. The applicant shall make its best efforts to continue leasing the 7 offsite parking spaces from New Jersey Transit.
5. The applicant shall comply with and satisfy comments 1 through 4 contained in the March 14, 2017 review memorandum prepared by W. Thomas Watkinson, PE, PP, Board Engineer.
6. The parking lot on Lot 28 shall be striped.
7. The applicant shall be bound by representations made on its behalf by its attorney and professionals during the course of the public hearings.
8. The applicant shall be responsible for all inspections fees required under Montclair Code Section 202-27 as well as escrow fees incurred in connection with review of this matter.

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

Following the conclusion of the application the Board took a break beginning at 9:55pm.

**MINUTES:**

The Board meeting resumed at 10:05pm. Mr. Harrison returned as Chair of the meeting.

The minutes from the June 21, 2017 meeting were presented. A motion to approve the minutes as amended was made by Mr. Reynolds, seconded by Ms. Baggs and approved unanimously with Mr. Moore abstaining.

**OLD BUSINESS:****Resolution App. 2497: 21 Plymouth Street. 21 Plymouth Street, Montclair LLC.**

Mr. Harrison introduced the resolution. The Board noted a few edits to the resolution as presented. A motion was made by Mr. Reynolds, seconded by Mr. Fleischer to approve the resolution as amended. The resolution was approved unanimously, with Mr. Moore abstaining.

**Resolution App. 2508: 160 Orange Road. Monika & Mido Emad.**

Mr. Harrison introduced the resolution. The Board noted a few edits to the resolution as presented. A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the resolution as amended. The resolution was approved unanimously, with Mr. Moore abstaining.

**Resolution App. 2509: 114 Upper Mountain Avenue. Nicole & Charbel Chalfoun.**

Mr. Harrison introduced the resolution. The Board noted a few edits to the resolution as presented. A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the resolution as amended. The resolution was approved unanimously, with Mr. Moore abstaining.

**NEW BUSINESS:****App. 2515: 237-249 Lorraine Avenue. NJ Metro Group LLC t/a Keller Williams.**

*Use variance for professional office on first floor in the N-C zone district.*

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

Mr. Trembulak reviewed the application for the Board. He noted that the applicant is Keller Williams Real Estate, which has an office currently located at 15 Bloomfield Avenue. He stated that the applicant intends to relocate to the subject property and occupy a portion of the first floor.

Mr. Trembulak introduced Julie Corbo, managing partner of Keller Williams NJ Metro Group.

Ms. Corbo stated that at the present location, Keller Williams has little street presence and that the office is located on the first floor. She stated that a lease has been signed at the subject property to occupy 5,300 sq. ft. of the second floor of the building and a portion of the first floor of the building. She stated that the location is ideal for Keller Williams, in the mixed use Upper Montclair Business District.

Ms. Corbo stated that a first floor presence will allow for increased community engagement as well as additional walk-in customers. She noted that the current location has very limited walk-in business.

Ms. Corbo stated that the office currently has 6 full-time employees that work in the office including a receptionist in the office from 9-5. She stated that the agents of Keller Williams NJ Metro work both in the office and at home. Ms. Corbo stated that 12-15 agents are in the office regularly.

Ms. Corbo also noted that the proposed location will allow for a training space for agents as well. She stated that between 20-25 agents attend the 90 minute training sessions held daily. Ms. Corbo stated that at most there would be between 30-40 agents on site at one time. She noted that there are also virtual agents of Keller Williams that work remotely but do sometimes use the office space.

Questions from the Board were then accepted.

Mr. McCullough asked if the office was designed to serve only Upper Montclair. Ms. Corbo stated that Keller Williams NJ Metro Group services a number of communities from Belleville to Fairfield. However, she noted that there has been a focus of business in Montclair.

Mr. McCullough asked if other locations in the Township were considered such as downtown along Bloomfield Avenue. Ms. Corbo stated that the agency was looking for a certain size space and a location that would allow agents to do more during the day. She noted that the walkability and visibility of the subject location was important.

Ms. Baggs asked about the receptionist in the office from 9am to 5pm, Monday through Saturday. She referred to the submitted plans and noted that there is no reception desk area proposed on the first floor. She asked for clarification of the use of the storefront. Ms. Corbo stated that on-duty agents would be stationed in the meeting rooms on the first floor in the storefront windows.

Ms. Baggs asked about the other meeting rooms. Ms. Corbo stated that there is demand by customers to meet with agents in the office. She stated that the meeting rooms located in the storefront window will allow customers to see the agency.

Ms. Baggs asked if any window treatments or coverings were planned for the storefront windows. Ms. Corbo stated that light up posters and flyers of inventory would be posted in the windows. Ms. Baggs clarified that no curtains or blinds were proposed. Ms. Corbo replied no.

Mr. Reynolds asked about use of the larger space. Ms. Corbo stated that in addition to training, the agency does a variety of outreach and hosts events for community organizations such as Bike Walk Montclair, Studio Montclair, etc. She stated the space would be used for events.

Mr. Fleischer noted that previously the Board granted a variance to a real estate office on Bloomfield Avenue that incorporated a gallery space. He asked what public benefit there would be of locating the real estate office on the first floor of the Neighborhood Commercial zone. Mr. Trembulak stated that real estate does function like retail in that a product is being sold. He stated that the proposed location along Lorraine Avenue is

also located away from the core retail area of Upper Montclair. He stated that the proposed use will bring activity to the street and that the agency does contribute to the community.

Mr. Harrison noted that there are three entry doors to the space on the first floor. Ms. Corbo stated that one door could serve as the primary entry and the other could be equipped with a buzzer for entry.

Mr. Harrison asked about parking on the site, noting there are 60 parking spaces. He stated that the Board recently considered an application for a real estate office where no parking was needed as testified by the agency. Ms. Corbo stated that the business model for Keller Williams is different and that a physical presence is needed.

Questions from the public were then accepted.

Jennifer Haughton, 14 Braemore Road, asked if the lease agreement signed by the applicant was contingent upon the variance approval. Ms. Corbo stated that they have signed a lease agreement and are required to obtain the variance for the first floor. She noted they are permitted in the second floor, but would also like to locate in the first floor. Ms. Haughton asked if the applicant was aware of the pending application for the subject property before the Planning Board. Ms. Corbo stated that the lease signed is for the previously approved site plan for the subject property.

Ms. Haughton asked if Ms. Corbo was aware of the existing real estate offices in Upper Montclair, Ms. Corbo replied yes. Ms. Haughton asked if Ms. Corbo was aware of the traffic in the immediate area. Ms. Corbo replied yes.

Ms. Haughton asked about parking for the community events. Ms. Corbo stated that there would not be any outdoor activities and that the activities would be in the evening between 5:30pm and 7pm.

Ms. Haughton noted that there is significant traffic and congestion in the area and that agents and visitors to the real estate office and asked if Ms. Corbo was aware. Ms. Corbo replied yes, noting that she has been a resident of Montclair for many years and shops in the area.

Mr. Trembulak noted that the lease is under the approved site plan application, dated April 2016.

Rob McFarland, 26 Braemore Road, asked about the 60 parking spaces and if the expansion of the building were approved, where they would be located. Mr. Trembulak stated that was for Mr. Pavel to stipulate to the Planning Board. Mr. McFarland asked if the 60 parking spaces would be dedicated for the real estate office. Ms. Corbo stated that the parking lot is for use by all tenants of the building and shared among the tenants.

Frank Rubacky, 398 Upper Mountain Avenue, asked if the real estate office would locate at the property without approval by the Board of Adjustment. Ms. Corbo stated that yes, the office would locate on the second floor.

Mr. Rubacky asked about the number of agents at the office. Ms. Corbo stated that the agency has a total of 185 licensed agents and noted that only a portion of the total agents pay the desk fee to use office space in the agency.

Mr. Rubacky noted that the Master Plan identified that retail on the first floor should be maintained in the Upper Montclair area and that other uses are to be along the edge of the commercial district. Ms. Corbo stated that this area of Lorraine Avenue is a side street from the main commercial area along Valley Road.

Mr. Rubacky asked about the level of use of the meeting rooms shown on the plans. Ms. Corbo stated that the agency is often very busy and that the meeting rooms will be booked most days the office is open for use.

Mr. Rubacky noted the proposed signage as stated, including the illuminated displays and stated that the signage would need to comply with the Township ordinance or seek an additional variance.

Mr. Rubacky asked for clarification if the use variance granted by the Board would allow any professional office use. Mr. Sullivan stated that should the use variance be granted by the Board, it could be specific to a real estate office use.

Patricia Abad, 19 Braemore Road, asked if the applicant had already signed the lease before the use variance. Ms. Corbo stated that the lease was signed in May or June 2017 for the approved building on the site.

Linda Russell, 212 Lorraine Avenue, asked if the real estate office could occupy the second floor space of the building only. Ms. Corbo stated that the first floor space is important for visibility and proximity to the street.

Mr. Harrison asked for clarification of the parking on the site. Ms. Corbo stated that the 60 on-site parking spaces are to be used by all tenants of the building.

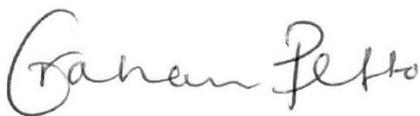
Mr. Harrison noted, given the late hour, that the application should be continued. Mr. Trembulak agreed to continue the application.

Mr. Harrison announced that the application would be continued to the August 16, 2017 Board meeting date with no further notice.

#### **ADJOURNMENT**

A motion to adjourn was offered by Mr. Reynolds, seconded by Mr. LaVail. The meeting was adjourned at 11:50 pm, July 19, 2017.

Respectfully submitted,



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