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MINUTES OF THE BOARD OF ADJUSTMENT **August 16, 2017**

ORDER: The meeting was called to order at 7:43 p.m. by Janice Talley. Ms. Talley 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: Ms. Talley called the roll. Present were Mr. Harrison, Mr. Fleischer, Mr. Reynolds, Ms. Baggs, Mr. Moore, Mr. LaVail, Ms. Chowaniec, Ms. Daye, Mr. Sullivan and Ms. Talley. Mr. Allen and Mr. McCullough were excused.

MINUTES: The minutes from the July 19, 2017 meeting were presented. A motion to approve the minutes as amended was made by Mr. LaVail, seconded by Mr. Reynolds and approved unanimously.

OLD BUSINESS:

Resolution for App. 2514: 121 Norwood Avenue. Ed Rappoport. A motion to approve the resolution as made by Mr. Fleischer, seconded by Mr. Moore and approved unanimously.

Resolution for App. 2505: 151 & 157-159 Forest Street. Erie Street Partners, LLC. A motion to approve the resolution as amended was made by Mr. Reynolds, seconded by Mr. LaVail and approved unanimously with Ms. Daye and Mr. Harrison abstaining.

NEW BUSINESS – RESIDENTIAL APPLICATIONS:

App. 2517: 792 Valley Road. Jennifer and David Campanaro. *Front yard setback variance.*

Mr. LaVail excused himself regarding Application 2517 because of a conflict.

Michael Constantin, the project architect, and Michael Schmidt, the design architect, presented the application. Their credentials were approved by the Board and they were sworn in.

Mr. Constantin summarized the variances, stating that the owners wanted to add an addition to the front of the house. Two front yard variances are required because the addition encroaches into the required front yard setback on Valley Road and Potter Court. Mr. Constantin stated that the existing porch facing Potter Court is setback 22 feet, 6 inches. The proposed addition has a setback of 23 feet, 11 inches, which is greater than the existing setback. The required setback is 34 feet, 11 inches. He stated that the variances are created by the existing alignment of the house with the street.

Mr. Constantin stated that the front yard variance on Valley Road is created by the large existing setback of the adjacent house, which creates a setback requirement of 56 feet, 11 inches. The proposed setback of the new addition is 54 feet, 11 inches.

Mr. Fleischer questioned the use of a survey from 2010, noting that there have been some changes to the property since the survey was prepared.

The property owner, David Campanaro, was sworn in. He stated that the 2010 survey was created when the property was subdivided, and noted that that the driveway leading to the two garages on what is now 10 Potter Court has been eliminated.

Mr. Fleischer asked when the new driveway to Potter Court installed. Mr. Campanaro stated that the new driveway was built in 2012 when Potter Court was resurfaced by the Township. He stated that they park their cars in this area.

Mr. Fleischer noted that the ordinance does not permit cars to be parked in the front yard and that this is a variance.

Ms. Talley asked why the applicant has three driveways.

Jennifer Campanaro was sworn in. Ms. Campanaro stated that the house used to be a two-family house and each family had its own driveway. She stated that she is willing to relinquish the southern Valley Road driveway and curb cut.

Mr. Harrison asked if the large rhododendron in the front yard would have to be removed if this is approved. Ms. Campanaro stated that it would have to be removed.

The hearing was opened to the public. There were no questions or comments.

Ms. Campanaro stated that she is trying to improve the house and the neighborhood with the proposed addition. Mr. Campanaro noted that the Historic Preservation Commission supported their proposed improvements.

Ms. Daye stated that she is in favor of the application, but the extra curb cut should be removed.

Ms. Chowaneic stated that she is in favor of the application.

Ms. Baggs noted that this is a corner lot which poses some difficulties. She also noted that the house is modest in size and does not have a vestibule, and that a new vestibule would be more energy efficient. She supports the application, but noted that the extra curb cut on Valley Road should be eliminated.

Mr. Fleischer stated that the architectural design is good, and that the variance does not create a detriment. He is concerned about the extra curb cut and the process in which it was allowed. He stated that the designated parking area should not be in the front yard.

Mr. Reynolds stated that he is generally in favor of the application, noting that the two front yards poses difficulties.

Mr. Moore stated that he is in favor of the application, noting that the configuration of the porch on the corner lot creates a hardship. He stated that the proposed addition will create a positive impact on both the home and the neighborhood.

Mr. Harrison stated that he is in favor of the application, noting that the situation with the setbacks on Valley Road is atypical. A motion to approve was made by Mr. Fleischer, seconded by Mr. Moore and approved unanimously.

App. 2518: 311 Grove Street. Michael Matzo. Front yard setback variance.

Mr. LaVail returned to the Board. Mr. Michael Matzo, the applicant, was sworn in. He stated that he has constructed a small, 5-foot wide roof over an existing 2nd story deck which has triggered the need for a front yard setback variance. The enclosed part of the deck is setback 21 feet from Clairidge Court, and the required front yard setback is 34.5 feet. The existing front yard setback, indicated by the footprint of the building, is 16 feet from Clairidge Court.

Ms. Baggs asked if an awning was considered as an alternative to the roof. Mr. Matzo responded that an awning would detract from the look of the house.

Mr. Moore asked about the tarp and ladder shown on the photograph submitted with the application. Mr. Matzo stated that he had to repair a hole in the roof.

The hearing was opened to the public. There were no questions or comments.

Ms. Chowaneic asked for clarification on the variance. Mr. Matzo stated that a setback of 34.5 feet is required, but a setback of 21 feet is requested.

Mr. LaVail stated that he is sympathetic to the desire of shade, but he does not understand the hardship argument for this variance.

Ms. Baggs noted that this is a post-construction variance. Mr. Sullivan stated that the Board should consider this as if the roof was not constructed. Ms. Baggs stated that the roof does not create a negative impact to the neighborhood, but she is concerned that someday the porch will be enclosed.

Mr. Fleischer stated that he sees no detriment created by the variance and he is in favor of the application.

Mr. Reynolds stated that he is in favor of the application.

Mr. Moore stated that he is on the fence about the variance. He noted that the house has historic character and that since the roof does not obstruct the historic character of the house, he is in favor.

Ms. Daye stated that she is in favor of the application.

Mr. Harrison stated that he is favor of the application. He stated that there is no substantial detriment to the Master Plan and not substantial detriment to the zoning ordinance created by this variance, but only if the porch is not enclosed.

A motion to approve the variance was made by Ms. Baggs with the condition that the porch not be enclosed. The motion was seconded by Mr. Fleischer and approved unanimously.

App. 2519: 95 Summit Avenue. David Smith and Lori McCann. Side and rear yard setback variance.

The applicants, David Smith and Lori McCann, introduced themselves. They presented Joseph Bruno, a licensed architect, to present the plans. Mr. Bruno provided his credentials to the Board and was sworn in.

Mr. Smith stated that their aging parents live with them and the additions to the house are intended to make it easier for their elderly relatives to live in the house. The improvements include a first-floor bathroom, additional storage areas and a mudroom.

Mr. Bruno stated that this property is a corner lot which creates the need for variances for the proposed additions. He stated that a variance is required to permit a front yard setback of less than the average front yard setbacks of the two nearest principal structures on Grove Street. The proposed mud room and closet addition to the lower level will be located in the required front yard setback along Grove Street. The proposed addition will align with the existing wall of the dwelling along the Grove Street façade. The proposed setback will be 26.16 feet and the existing setback of this façade is 26.51 feet.

Mr. Bruno stated that a variance is required to permit a side yard setback of less than the required 6 feet for the proposed storage and terrace addition, which has a side yard setback of 4.41 feet. A side yard setback variance is needed for the expanded kitchen addition, which has a side yard setback of 5 feet. Mr. Bruno noted that the proposed additions align with the wall of the existing dwelling along this side of the property.

Mr. Bruno stated that a variance is required to permit a rear yard setback less than the required 25% of the depth of the lot, in this case, less than 42.11 feet. The rear yard setback for the proposed storage shed/terrace addition is 37.5 feet. He noted that the variance is mitigated by the trees that exist along the property line, which is his neighbor's side yard, not rear yard.

Mr. Bruno noted that both additions maintain the existing line of the house along the side.

Mr. Reynolds asked what the shed located on the Grove Street property line is used for. Mr. Smith stated that it is used to store garden tools.

Mr. Fleischer stated that the storage shed on Grove Street should be removed, especially since the application includes an additional storage area for the garden.

The hearing was opened to the public. There were no questions or comments.

Ms. Chowaneic stated that she is in favor of the application and that the proposed improvements are appropriate. She stated that the extra shed should be removed.

Ms. Baggs stated that Mr. Bruno had done a good job with the design, that the additions are needed and are minor changes with minimal impact to the neighborhood. She stated that she would like to follow the recommendations of the Historic Preservation Commission, and would support the application if the shed on Grove Street is removed.

Mr. Fleischer stated that he is in favor of the application, but that the shed in the front yard should be removed.

Mr. Reynolds stated that he is in favor of the application, but is concerned about the existing shed.

Mr. Moore, Ms. Daye and Mr. LaVail stated they were in favor of the application.

Mr. Harrison stated that he is concerned about the rear yard setback variance. He stated that the applicant should be required to remove the shed in the front yard, especially if the Board is granting a rear yard variance for a storage shed. He stated that the shed should be removed once construction of the additions is completed.

A motion to approve with the stated condition was made by Mr. Fleischer, seconded by Ms. Baggs and approved unanimously.

The Board took a break at 9:05.

OLD BUSINESS (CONTINUED):

App. 2515: 237-249 Lorraine Avenue. NJ Metro Group LLC t/a Keller Williams.
Continued hearing from July 19 for use variance to locate professional office (real estate) on first floor in the N-C zone district.

Mr. Alan Trembulak, Esq. represented the applicant. He introduced George Williams, a professional planner. Mr. Williams gave his credentials and the Board accepted him as an expert. He was sworn in.

Mr. Williams presented an aerial photograph of the site (marked as Exhibit A-3), a photo inventory of the area (marked as Exhibit A-4) and a photo inventory of street level realtors (Exhibit A-5).

Mr. Williams stated that the land uses along Lorraine Avenue are very different in character from the land uses on Valley Road. He stated that Lorraine Avenue is less pedestrian-oriented, and as a result uses such as a first-floor realtor office is appropriate in this location.

Mr. Williams reviewed the site conditions, the site plan and the building characteristics on Valley Road and Lorraine Avenue.

Mr. Williams stated that there are special reasons to support the use variance. He stated that the variance supports the purpose of planning (a), (g) and (i). He stated that the proposed use is appropriate at this location, which is at the end of the business district. He stated that there is a growing trend for storefront realtor offices, and that the proposed location meets the need for this trend. He stated that it will also create a desirable visual environment as the realtor storefront will be very attractive.

Mr. Williams stated that the site is particularly suitable for the proposed use. He stated that realtor office serves the purpose and intent of the Neighborhood Commercial district. He stated that the realtor office will help stimulate pedestrian activity along Lorraine Avenue. Mr. Williams stated that the site is unique as it is set aside from the traditional land use pattern along Valley Road.

Mr. Williams stated that the use variance will create no substantial detriment to the public good and no substantial detriment to the zone plan. He stated that page 145 of the Master Plan discusses the importance of maintaining the vitality of the neighborhood, and that the proposed realtor office will help maintain the vitality of the Lorraine Avenue neighborhood.

Mr. Williams noted that there are similar realtor offices in the area, including the Weichert realtor office on Bellevue Avenue and another realtor office nearby on Valley Road. Mr. Williams noted a use variance granted by the Board several years ago permitting a realtor office in Watchung Plaza.

Ms. Baggs asked about Mr. Williams understanding of the Upper Montclair Street Classification Map in the Land Use Plan which shows Lorraine Avenue as a neighborhood thoroughfare and why real estate offices are not permitted on the first floor. Mr. Williams stated that the ordinance prohibits first floor realtor office to guard against uses that may detract from pedestrian vitality, and that the proposed use will not detract from the pedestrian experience on Lorraine Avenue.

Ms. Talley asked about window signage for the proposed use. Mr. Williams stated that it will be designed to meet Township requirements.

Mr. Fleischer stated that the storefront should be designed as a reception area, not a meeting room. He stated that he is concerned about the square footage of the first-floor space for the realtor use. He stated that the entry to the realtor office should be crystal clear, with a sign on the west side of the storefront and reception area on the east side of the storefront.

Mr. Williams stated that the realtor office will enhance the pedestrian feel, but will not increase pedestrian flow.

Mr. Harrison asked for clarification on the Master Plan.

Mr. Trembulak summarized the application. He stated that the applicant is proposing to locate a realtor office on the first floor of the building. He noted that 5 of the 8 realtor offices are located on the first floor in the NC zone in close proximity to this property. He stated that there are many similarities to between retail use and realtor offices, both having to do with sales. He noted that the subject property is not located in the heart of the district, but on the edge or fringe of the district.

Ms. Baggs stated that she is struggling with this application for several reasons. She is concerned about the conflicting testimony given regarding traffic generators and pedestrian flow. She agrees that the location is kind of on the edge, but not truly the edge. She believes that despite the number of first floor realtor offices located in the zone, each application is judged on its own merits.

Mr. Fleischer stated that he is in favor of the application. He states that the location is isolated and that the application will have no significant impact on the master plan and zoning ordinance. He stated that the front entry area should be converted to a reception area.

Mr. Reynolds stated that the intent of the ordinance is to ensure activity at street level. He agrees that a first floor reception area is an important condition.

Mr. Moore stated that he agrees that this is an appropriate use as long as the applicant follows his colleague's restrictions.

Ms. Daye said she is on the fence. She is concerned about the inconsistent testimony and the lack of community integration with the application.

Mr. LaVail stated that he does not buy the idea the real estate office is a positive use at this location. He is concerned about the meeting rooms in the storefront space and the type of signage associated with realtor offices. He stated that this use will not generate the desired pedestrian flow for a commercial district.

Ms. Chowaneic stated that she is not in support of the application.

Mr. Harrison stated that he questions the special reasons given in support of this variance. He stated that this use is not similar to other retail uses, but he views this building as an island. On the other hand, he stated that a typical retail use will be hard pressed to be successful at this location. He stated that this use does not need half of the first-floor space in this building.

Ms. Baggs stated that the applicant asked for some first-floor storefront space to get people into the office.

Mr. Harrison suggested that the applicant limit the first floor usage to the right side of the space and that the first floor space be limited in depth to the area in front of the staircase to the second floor.

Mr. Fleischer made a motion to approve the application with the condition that the front store area be dedicated to quasi-public space. The following conditions were added: the windows cannot be covered, all signage shall conform to the ordinance and a sign be located over the primary entrance door. The motion was seconded by Mr. Reynolds, but failed. Mr. Fleischer, Mr. Reynolds and Mr. Moore voted to approve the application and Ms. Baggs, Ms. Chowaneic, Mr. LaVail and Mr. Harrison voted to deny the application. The motion to approve the application with these conditions failed.

Mr. Harrison made a motion to approve the application with the added condition that first floor use to what is labeled on the plans as the two meeting rooms on the eastern side of the building at a depth even to the back of the hallway, which is about 30 feet from the front of the building. This motion was seconded by Mr. Reynolds.

Mr. Fleischer said that this new motion does not change anything. Ms. Chowaneic stated that the Board is trying too hard to solve the problem.

The Board decided to carry the application and allow the applicant to come back with a modified plan before the resolution is adopted. The applicant must publish new notice for the September 27th meeting and will continue deliberation on a modified plan. A motion to carry the application to September 27 was made by Mr. Reynolds, seconded by Mr. Fleischer and approved unanimously.

Mr. Trembulak agreed to an extension of time.

NEW BUSINESS:

App. 2506: 19-23 North Willow Street. Redeemer Church of Montclair. *Conditional use variance and site plan approval for expansion of a church in the R-2 zone district.*

Alan Trembulak, Esq. represented the applicant. He stated that he has four witnesses and 2 public members as part of this application. Mr. Harrison asked if the application was tax exempt or partially tax exempt. Ms. Talley stated that she could not answer this

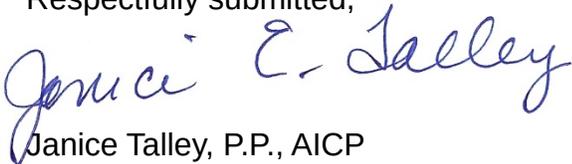
question at this time, but the notice is in order. Mr. Trembulak stated that he does not know the tax exempt status of this application.

The application was continued to the September 13th meeting.

ADJOURNMENT

A motion to adjourn was offered by Mr. Reynolds, seconded by Mr. LaVail. The meeting was adjourned at 11:25 pm, August 16, 2017.

Respectfully submitted,

A handwritten signature in blue ink that reads "Janice E. Talley". The signature is written in a cursive style.

Janice Talley, P.P., AICP
Secretary
Zoning Board of Adjustment