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MINUTES OF THE BOARD OF ADJUSTMENT October 11, 2017

ORDER: The meeting was called to order at 7:35 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. Reynolds, Mr. Moore, Mr. Allen, Ms. Chowaneic, Mr. LaVail, Mr. McCullough, Ms. Daye, Mr. Sullivan and Mr. Petto.

MINUTES: The minutes from the September 27, 2017 meeting were presented. A motion to approve the minutes as amended was made by Mr. Fleischer, seconded by Ms. Baggs and approved unanimously, with Ms. Chowaneic, Mr. Moore and Mr. Reynolds abstaining.

OLD BUSINESS:

Resolution for App. 2516: 594 Valley Road. P and D Zimmerman Family Limited Partnership. *Residential density variance and site plan approval for expansion of a building in the N-C zone.*

Mr. Harrison introduced the resolution for review by the Board. A few amendments to the resolution were discussed by the Board. A motion to approve the resolution as amended was offered by Mr. Fleischer, seconded by Mr. LaVail. The resolution was approved unanimously with Ms. Chowaneic, Mr. Moore and Mr. Reynolds abstaining.

NEW BUSINESS:

App. 2526: Robert Ruberton. 98 Clinton Avenue. *Bulk variance for accessory structure rear yard setback & height.*

Mr. LaVail recused himself from participation in the application.

Chair Harrison introduced the application before the Board. Present for the application was Mr. Robert Ruberton and Ryan Hodgson, contractor for the applicant.

Mr. Hodgson reviewed the proposal to construct a dormer addition to the existing garage. He noted the proposed addition does not comply with the maximum permitted height and setback. Mr. Hodgson reviewed the proposed second floor space, noting a sitting area, bar area and bathroom.

Questions from members of the Board were then accepted.

Mr. Fleischer asked how the proposal second floor space would not be considered a habitable unit. He noted that the space would include a bathroom and almost a full kitchen with sink and refrigerator. Mr. Ruberton stated that the second floor would be used as a lounge space with a refrigerator for beverages. He noted that there would be a television in the space. Mr. Ruberton also noted that the proposed bathroom would not include a shower, nor a bath tub.

Mr. Fleischer asked about the current use of the second floor space. Mr. Ruberton stated that there is currently no use on the second floor. Mr. Hodgson noted that there is plumbing within the garage, existing.

Mr. Allen asked what constituted a dwelling unit in the ordinance. Mr. Petto read the definition of Dwelling Unit from Montclair Code 347-2 for the Board.

Mr. Reynolds asked if the space would have heating and air conditioning under the proposed plan. Mr. Ruberton replied yes. Mr. Reynolds noted that a gas line connection to the building could allow for a cooking facility in the space.

Mr. McCullough asked if the applicant would foresee any rental or lease of the proposed second floor space. Mr. Ruberton replied no.

Mr. Harrison asked if the space currently had heating or air conditioning. Mr. Ruberton replied no.

Mr. Harrison asked about existing windows on the second floor of the garage. Mr. Ruberton noted that there are three windows currently, two at the ends of the gables and one in an existing dormer to be removed under the plan.

Mr. Ruberton stated that there was no intention of using the space for a dwelling unit.

Mr. Moore asked about visibility of the garage from adjacent properties. Mr. Ruberton stated that there are many trees at the rear of the property that screen the garage from adjacent dwellings.

No comments from the public were offered.

Final comments from the Board were then accepted.

Ms. Daye stated that she was generally in favor of the application and would agree to a condition that limited gas service be provided to the building for heat only, not cooking.

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

Mr. Moore stated that he would be in favor of the application as there is no detriment to adjacent properties.

Ms. Baggs stated that she would not be in favor of the application. Ms. Baggs reviewed the criteria for a hardship request by an applicant. She noted that no hardship was presented by the applicant and as such, she could not be in favor.

Mr. Fleischer stated that he would not be in favor of the application as there was no basis for the hardship.

Mr. Reynolds stated that he was concerned about the application, which would not expand the footprint of the building, but would allow for potentially additional living space.

Ms. Chowaneic agreed with the comments by Mr. Reynolds. She noted that while the proposed lounge use by the current applicant could be acceptable, use as a dwelling unit would not be. She stated that the hardship criteria were not met and that she would not be in favor.

Mr. Allen stated that the space on the second floor of the garage does currently exist and could be used without the proposed improvements by the applicant. He stated that he would be in favor of the application with a restriction that no gas service be provided and that there be no toilet facility.

Mr. Harrison stated that he would not be in favor of the application. Mr. Harrison referred to the definition of accessory structures in the ordinance, which he noted preclude accessory structures from being used as dwelling units or guest quarters. He noted that the proposed modifications to the second floor, including the bathroom, living space and kitchen area could be considered guest quarters. He noted that this would be inconsistent with the definition of accessory structures.

A motion to deny the application was offered by Ms. Baggs, seconded by Mr. Fleischer. Mr. Harrison, Mr. Fleischer, Ms. Baggs and Ms. Chowaneic voted in favor of the motion to deny. Mr. Reynolds, Mr. Moore and Mr. Allen voted against the motion. The application was denied.

App. 2515: 237-249 Lorraine Avenue. NJ Metro Group LLC t/a Keller Williams.
Continued hearing from August 16, 2017 for use variance to locate professional office (real estate) on first floor in the N-C zone district. Continued from September 27 Board Meeting.

Mr. LaVail recused himself from participation in the application.

Chair Harrison introduced the application to the Board. Present for the applicant was attorney Alan Trembulak.

Mr. Trembulak summarized the preceding testimony for the Board on the application. Mr. Trembulak noted that since the last appearance before the Board, the applicant has consulted with Studio Montclair and Montclair Bread to sub-lease storefront space at the subject property.

Mr. Trembulak then introduced Mr. Paul Sionas, architect for the applicant, to review the updated plans submitted by the applicant. Mr. Sionas referred to Sheet A-7 and reviewed the storefront renderings. He noted that the Studio Montclair would occupy about one half of the storefront with a gallery space and would also have access to the multi-purpose room to the rear for events.

Mr. Sionas noted that Montclair Bread would maintain a coffee bar/kiosk in the front of the remaining half of the storefront. Mr. Sionas noted that the Keller Williams reception desk would be located to the rear of the Montclair Bread coffee bar/kiosk. He stated that only the center door would be operable and in use to access the spaces.

Mr. Sionas reviewed the proposed signage for the building, noting the projecting signs and the wall mounted business signs in addition to window lettering.

Mr. Sionas noted that offices for Keller Williams would be located on the second floor while the first floor would include some meeting space and flexible multi-purpose space for Keller Williams and Studio Montclair to use.

Questions from the Board were then accepted.

Mr. Fleischer stated that the concept was good for the building. He stated that there were too many signs identifying Keller Williams and that the name should be removed from the wall-mounted business signs, since Keller Williams is not an owner of either leasing entity.

Mr. Fleischer noted on the plans that no indoor seating was provided for the Montclair Bread use. He stated that the Keller Williams reception area should be shifted to the rear to allow for seating for Montclair Bread and to create additional indoor space for the use.

Mr. Harrison noted the proposed signage for the entry doors and stated that the entry door to the stairs to the second floor should include signage for Keller Williams. He agreed with Mr. Fleischer's comments regarding additional interior seating for Montclair Bread.

Ms. Daye asked if the proposed Studio Montclair and Montclair Bread uses would be sub-tenants of the applicant. Mr. Trembulak replied yes.

Ms. Chowaneic asked if the Montclair Bread location would be viable in Upper Montclair. Mr. Trembulak stated that the applicant hopes the location would be long-term in Upper Montclair. He stated that the applicant would agree to replace the tenant with another permitted use of the first floor should the arrangement for Montclair Bread not work.

Mr. Trembulak then summarized the application for the Board. He noted that the applicant's revisions now represent compliance with the spirit of the ordinance to activate the street front of the location. He stated that the proposed first floor uses are complimentary to other uses in the area.

No comments from the public were offered.

Final comments from the Board were then accepted.

Mr. McCullough stated that the revised plan contributes to the public good of the commercial district and nearby residential activity. He stated that he shared concerns about the amount of signage for Keller Williams. He also noted concern about the visibility of the reception area for Keller Williams and that any illuminated interior signage may conflict with the Montclair Bread area to the front. He also noted that the proposed restroom should be provided for public use by customers.

Mr. Moore stated that he would be in favor. He stated that the building has been vacant for a long time and that it will be good to be reused. He stated that the proposed tenants will add to the space and represent a good plan revision by the applicant.

Ms. Baggs stated that she had no additional comments.

Mr. Fleischer stated that he would be in favor. He thanked the applicant and proposed subtenants for the solution to make the space a better place. He stated that modifications to the signage are needed for the application.

Mr. Reynolds stated that he would be in favor.

Ms. Chowaneic stated that she would be in favor of the application and that she appreciated the thought by the applicant to solve the use issue.

Mr. Allen stated he would be in favor.

Ms. Daye stated that she would be in favor. She stated that a reduction in the signage and softening of the appearance of the reception area for Keller Williams would improve the application.

Mr. Harrison stated that he would be in favor of the application. He stated that the applicant made a good effort to address the Board's concerns. He stated that the proposed uses would be an asset to the area and would not impair the zone plan nor be a detriment to the public good.

Mr. Harrison noted the following conditions of any approval:

1. The first floor layout shall be as depicted on the floor plan and elevation prepared by Sionas Architecture, P.C., Sheet A1 dated September 8, 2017, revised through September 29, 2017.
2. No window treatments shall be permitted on first floor windows.
3. The front approximately 1/3 of the building on the first floor shall be utilized by permitted uses in the zone.
4. A maximum of 4 Keller Williams signs shall be permitted, none of which shall be combination signs with other uses and all signs shall conform to the ordinance.
5. The first floor restroom shall be available to all tenants and subtenants of the first floor space which is the subject of this approval.
6. The coffee bar area shall be revised to accommodate at least 2 tables and chairs.
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 was made by Mr. Fleischer, seconded by Ms. Baggs to approve the application with the conditions as stated by Mr. Harrison. The application was approved unanimously.

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

Mr. LaVail returned to the meeting to participate in the application.

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

Mr. Trembulak summarized the application for the Board. He noted that the Board had previously granted the conditional use variance for the applicant and that the application is reappearing before the Board for final site plan approval.

Mr. Trembulak then introduced Mr. Paul Sionas, architect for the applicant, to review the revised site plans for the Board.

Mr. Sionas introduced Exhibit A-1, a PowerPoint presentation reviewing the submitted site plans in detail. Mr. Sionas reviewed the modifications to the site plan, consistent with the Board's variance previous approvals for the application and other site plan recommendations.

Following the presentation, questions from the Board were then accepted.

Ms. Baggs referred to the memo from Board Engineer Tom Watkinson and asked if the applicant would comply with the comments. Mr. Sionas replied yes and reviewed the comments for the Board.

Mr. LaVail asked about the windows on the facade of the building, fronting North Willow Street and if the window sills should be raised to retain privacy for the neighbors. Mr. Trembulak stated that there was no need to raise these windows as they front towards North Willow, not the adjacent rear yards of residential properties.

Mr. Fleischer noted that the privacy of adjacent rear yards was the concern in relation to raising the window sill height on the northern façade, facing the adjacent rear yards of the dwellings to the north along North Willow Street.

Mr. Fleischer asked if the applicant had considered an underslung elevator for the proposed addition. Mr. Sionas stated that had not been considered that it could be.

Mr. Fleischer noted the alternative window design presented by Mr. Sionas for the north façade and stated he had no preference.

Mr. Fleischer asked about the size of the proposed roof mounted HVAC equipment. Mr. Sionas stated that it would be no taller than the proposed parapet wall to reduce visibility.

Mr. McCullough asked about the rolling gates and how they are stored when open. Mr. Sionas stated that they will be hidden by landscaping areas.

Mr. Fleischer asked about the pavers and stated that there should not be a step down from the sidewalk to the driveway entry. Mr. Sionas replied that there would not be a step down.

Mr. Fleischer asked if the proposed parking spaces align with the front of the building. Mr. Sionas replied yes.

Mr. Fleischer recommended that the proposed pavers at the driveway entry be continued along the walkway to the building.

Ms. Baggs referred to sheet L-1 and noted an AC unit label. Mr. Sionas stated this was a drafting error.

Ms. Baggs asked about the mounting heights of the lights along the southern façade of the building. Mr. Sionas stated that they would be 7 feet 6 inches above grade and would turn off at 10pm.

Mr. Harrison asked about the proposed plantings for the site, which differed in the presentation from what is shown on the plans. Mr. Sionas noted that the plants shown on the plans were indicated to be setback and lower in height to protect site lines for cars exiting the parking area.

Mr. Harrison asked about details of the proposed gate and if there would be decorative posts. Mr. Sionas replied yes.

Mr. Harrison asked if trash removal would be provided by the Township. Mr. Sionas replied yes.

Mr. Harrison asked about the location of the proposed six foot fence along the southern property line and how far the fence would extend towards North Willow Street. Mr. Sionas noted that the fence would extend to the edge of the parking lot on the church property. Mr. Harrison suggested that the fence extend only to the front of the adjacent house at 25 North Willow Street.

Mr. Harrison asked Mr. Sionas to review compliance of the revised site plans with the previous conditions of the Board's resolution for the variances.

Mr. Sionas stated that with respect to Condition 5, the HVAC equipment must be mounted on the roof and there will be a maximum of 8 units total.

Mr. Sionas stated that with respect to Condition 12, the trash enclosure has been relocated to the south side of the building.

Mr. Sionas noted that the sills of the windows have been raised per Condition 14, but for the second floor windows only as the first floor windows will be shielded from view of the adjacent properties by the proposed fencing and landscaping.

Mr. Sionas also stated that the applicant would obtain approval from the County Planning Board if necessary.

Mr. Fleischer stated that the parking area and the proposed fence should be moved rearward to align with the front of the dwelling at 25 North Willow Street.

Questions from members of the public were then accepted.

Mr. Dana Morgan, 25 North Willow Street, asked if the applicant could install a 7 foot fence. He stated that 12 foot high plantings should also be installed. He stated that the base of the windows on his home overlooking the subject property are 6 feet in height and that the proposed fence height would allow for visibility of the parking area and church addition.

Mr. Morgan asked if the proposed doors on the side of the church would be main entry doors. Mr. Sionas replied no noting that these are not the primary entrance to the church.

Mr. Morgan asked if the parking area would be leased to other non-church related entities for parking during off-hours. Mr. Sionas replied no, noted that the secure gate

will prevent such parking and that the Board requested that the applicant limit use of the site.

Mr. Alfonso Cuocco, 161-167 Glenridge Avenue, stated that he was pleased with the proposed project and stated that the addition will be a benefit to the neighborhood. He stated that he was in favor of the project.

Mr. Trembulak summarized the application for the Board and noted that the applicant has complied with all previous conditions except the three noted by Mr. Sionas.

Mr. Trembulak noted that the only additional variance would be for the proposed six foot fence along the shared property line with 25 North Willow Street.

Mr. Trembulak requested that the Board consider modifying the 2nd condition of the variance resolution to allow use by civic and community activities by not-for-profit groups as permitted under Montclair Code 347-11(B)4.

Mr. Harrison stated that there was previously substantial comment from the public regarding use of the property and that the condition referenced by Mr. Trembulak responds to those concerns. He stated that much more discussion and details on the proposed use would be needed by the Board in order to consider such a request.

Final comments from the Board were then accepted.

Mr. LaVail stated that he would be in favor of the proposed site plan before the Board. He stated that he would not be in favor of any changes to the uses already discussed and approved by the Board.

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

Ms. Baggs stated that she had no further comments on the application.

Mr. Fleischer stated that he would be in favor of the site plan with the conditions as discussed by the Board. He stated that he would not be in favor of modifying the previous condition regarding use of the space.

Mr. Reynolds stated that he would be in favor of the site plan application.

Ms. Chowanec stated that she would be in favor of the site plan application and not in favor of modifying the proposed use condition.

Mr. Allen stated that he would be in favor of the site plan application and not in favor of modifying the proposed use condition.

Ms. Daye stated that she would be in favor of the site plan application and appreciated the reduction of the size of the addition.

Mr. McCullough stated that he would be in favor of the site plan application and not in favor of modifying the proposed use. He stated that he would also support a 7 foot fence along the property line with 25 North Willow Street.

Mr. Harrison stated that he would be in favor of the site plan application. He summarized the proposed conditions for the application:

1. All conditions imposed in the Board's September 27, 2017 resolution shall remain in full force and effect except that with respect to condition 5 a maximum of up to

8 condensers on the roof shall be permitted provided they are not visible from the sidewalk in front of the building, condition 12 shall be deleted and condition 14 shall not be applicable to the first floor windows.

2. The applicant shall comply with and satisfy recommendations 1, 2 and 3 contained in the October 3, 2017 review memorandum prepared by W. Thomas Watkinson, P.E., Board Engineer, except that submission to the Essex County Planning Board shall only be made if required.
3. The plans shall be revised to eliminate the air conditioner on Sheet L-1 prepared by Sionas Architecture, P.C. dated February 15, 2017 revised through September 29, 2017 which was inadvertently left on the plan.
4. The fence and parking on the northeasterly side of the site shall be no closer to the street than the porch on the adjacent house to the northeast.
5. The fence posts shall be more decorative and subject to review and approval by the Planning Department.
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.

The Board discussed the proposed height of the fence at 6 foot as requested by the applicant or a greater 7 foot fence height.

A motion was Reynolds to approve the application with the conditions as stated by Mr. Harrison and a variance for a fence 6 feet in height. The motion was seconded by Mr. Fleischer. The application was approved unanimously.

App. 2513: 111 & 113 Grove Street & 63 Walnut Street. Willow Grove Partners and Greenwood Partners. *Use variances for commercial use in the R-2 zone and first floor office use in the N-C zone. Carried from September 13 Board Meeting.*

Mr. Harrison recused himself from participation in the application.

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

Mr. Trembulak reviewed the application for the Board. He reviewed the variances requested by the applicant and the situation of the subject properties in three different zone districts.

Mr. Trembulak then introduced Mr. Steven Plofker, of Willow Grove Partners and Greenwood Partners.

Mr. Plofker reviewed the proposed application for the Board. He noted that the proposal is to construct a new 2-story brick commercial building on the site. He stated that there would be retail use on the first floor fronting Grove and Walnut Streets and office space on the rear of the first floor and the second floor. He noted the situation of the parking area as well.

Questions from the Board were then accepted.

Ms. Baggs asked if the proposed site included the existing car wash. Mr. Plofker replied yes, and noted that this use would be removed. He noted that the property is bounded by other auto uses on Walnut Street and Grove Street.

Ms. Baggs asked if the car rental, currently at the subject property, would be retained. Mr. Plofker stated that discussions have been on-going with the car rental agency to keep them on site. He noted that they do require additional vehicle storage.

Ms. Baggs asked if the building could be pushed to the street to eliminate parking in front of the building along Grove Street and Walnut Street. Mr. Plofker stated that the preference for retail tenants is to have parking in close proximity to the entrance to their space. Mr. Plofker also stated that additional parking would be available in the immediate area, off-site.

Mr. Moore asked about the proposed types of retail. Mr. Plofker stated that it was not yet determined, but could include restaurants as they are popular in the area.

Mr. Trembulak then introduced architect Paul Sionas to review the plans for the Board. Mr. Sionas presented a PowerPoint presentation, summarizing the proposed development for the Board.

Mr. Fleischer noted that given the late hour, the application should be continued to the November 8, 2017 meeting of the Board. The Board carried the application to this date with no further notice.

ADJOURNMENT

A motion to adjourn was offered by Mr. Reynolds, seconded by Mr. LaVail. The meeting was adjourned at 11:20pm.

Respectfully submitted,



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