



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



**Graham Petto, P.P., AICP**  
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## MINUTES OF THE BOARD OF ADJUSTMENT January 24, 2018

**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, Mr. Reynolds, Ms. Baggs, Mr. Allen, Mr. Moore, Mr. Sullivan and Mr. Petto. Mr. McCullough and Ms. Daye were excused.

### **APPROVAL OF MINUTES:**

The minutes of the December 20, 2017 meeting were introduced and discussed. A motion to approve the minutes as amended was offered by Mr. Fleischer, seconded by Mr. Reynolds. The minutes were approved unanimously with Mr. Moore abstaining.

### **2018 UPDATED SCHEDULE OF MEETINGS**

Mr. Harrison introduced the updated 2018 Schedule of Meetings, which includes six additional meeting dates if needed by the Board. An edit to the dates was made by the Board.

A motion was made by Mr. Fleischer, seconded by Ms. Baggs to approve the updated schedule as amended. The motion was approved unanimously.

### **RESOLUTIONS:**

**[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. Continued from October 11 Board meeting.*

Mr. Harrison recused himself from consideration of the resolution.

Mr. Fleischer introduced the resolution to the Board. No changes were made by the Board.

A motion was offered by Ms. Baggs, seconded by Mr. Allen to approve the resolution as submitted. The resolution was approved with Mr. Moore abstaining.

### **OLD BUSINESS – NON-RESIDENTIAL:**

**[App. 2522: 40 South Fullerton Avenue. Willow Street Partners.](#)** *Use variance application for townhome development in the R-1 zone district.*

Mr. Harrison and Mr. Allen recused themselves from consideration of the application.

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

Mr. Fleischer noted that only four eligible Board members were in attendance for the application. Mr. Trembulak stated that the applicant would agree to carry the application to the February 7, 2018 meeting of the Board. The Board agreed to carry the application with no further notice.

**App. 2523: 25 Valley Road. JU LLC.** *Use variance for retail & service use in the OR-4 zone district.*

Mr. Harrison and Mr. Allen returned to the Board.

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

Mr. Trembulak summarized the application before the Board. Mr. Trembulak stated that the subject property contains a first floor storefront that is currently vacant. He noted that the owner of the property has listed the space for rent for two years and has been unable to identify a tenant due to the existing zoning of the property. He noted that the first floor is configured as a storefront and contains about 1,420 total sq. ft. He noted that there is an existing computer repair business in about 500 sq. ft. of the first floor.

Mr. Trembulak introduced Mr. Catalin Urso, owner of 25 Valley Road. Mr. Urso explained that the existing computer store operates in about 500 sq. ft. and that 900 sq. ft. of the first floor has been advertised for rent. He noted that previously a real estate office was located in the space, which departed in February 2016. He stated that since having the space advertised for rent he has had inquiries from 40-50 prospective retail tenants and one office tenant.

Mr. Urso also noted that there is an existing one bedroom apartment on the second floor. He also noted that there are 3 parking spaces in the rear, one for the computer repair shop, one for the other first floor storefront and one for the second floor apartment.

Questions from the Board were then accepted.

Mr. Allen asked about parking. Mr. Urso clarified that there are three parking spaces in the rear, which are accessed through the shared driveway with the adjacent property. He noted there is an access easement to use the driveway.

Ms. Baggs asked about parking in the area for customers. Mr. Urso stated that there is on-street parking and the adjacent municipal parking lot.

Ms. Baggs asked if the construction in the area has had an impact on the business. Mr. Urso replied yes, stating that it has been difficult for customers to park in the area during construction.

Mr. Trembulak then introduced Mr. George Williams, professional planner for the applicant. Mr. Williams reviewed the variances sought under the application, noting the property is located in the OR-4 zone district and the applicant seeks a retail/professional service for the vacant storefront space. Mr. Williams also noted the location of the

property in the proposed C-2 Downtown land use area of the adopted Land Use & Circulation Element of the Township Master Plan.

Mr. Williams reviewed the positive and negative criteria for the application. He also noted impact of the variance on the Township's plan and zoning ordinance.

Mr. Williams introduced Exhibit A-1, an area map and photo survey of the subject property. Mr. Williams reviewed the submitted exhibit and noted that the subject property is configured with a storefront for each retail space and is located near other retail uses to the north on Valley Road.

Mr. Williams stated that the owner has attempted to lease the space to permitted uses in the zone without success. He also noted that the proposed retail/professional service use would not impair the zone plan nor be a detriment to the public good.

With respect to the parking variance, Mr. Williams noted that the existing site is built-out with no room for additional on-site parking. He stated that there is no way for the property owner to comply with the ordinance requirement.

Questions from members of the Board were then accepted.

Mr. Fleischer asked if there was a preference of a retail tenant or a personal service tenant. Mr. Williams stated that the size of the space, at only 900 sq. ft. would limit the potential for a retail tenant. As sized, Mr. Williams stated it would be better suited for a personal service establishment.

Ms. Baggs asked if the office space is Class A space. Mr. Williams stated that it was not his expertise to determine the classification of the space.

Mr. Harrison asked if the master plan and the zoning ordinance conflicted with one another with respect to the subject property. Mr. Williams stated that the master plan is current and has not changed since adoption, which was first adopted in 2015 and amended in 2016.

Mr. Harrison asked Mr. Williams to review the uses on the adjacent lots in the OR-4 zone along Valley Road, adjacent to the subject property. Mr. Williams reviewed the use of these adjacent properties for the Board.

Mr. Harrison asked how the subject property was different from the adjacent residential uses and house of worship along Valley Road. Mr. Williams stated that the subject property has been configured with two large storefront windows along the sidewalk, already establishing a storefront space.

Mr. Harrison asked about prior uses of the building. Mr. Urso stated that previously a limousine service occupied the building. He also noted that previous tenants included a medical service in the 1950s or 1960s and prior to that a shoe repair. He stated that the building was constructed around 1875.

Final questions and comments from the public were then accepted.

Leonard Cautela, 12 Wilde Place, stated that traffic and parking issues are a big concern in the downtown area. He stated that there are a number of events in the area that make the traffic and parking situation worse, such as events at churches and the

Wellmont Theater. Mr. Cautela stated that the traffic and parking concerns are a broad concern across the Township and should not impact the owner of this application.

Mr. Trembulak then summarized the application for the Board. He noted that given the small size of the storefront and existing configuration the variance could be granted. He noted that the property is already mixed-use with office and residential.

Final comments from the Board were then accepted.

Mr. Moore stated that he recognized the hardship of the applicant due to the on-going construction in the area and difficulty renting the space. He stated that the location of the property near the larger commercial district would support retail at the location. He noted that there is retail across Valley Road as well. He stated he would be in favor.

Ms. Baggs stated that she would support the application. She stated that the special reasons for granting the variance have been provided by the applicant. She noted that the site is well suited for the proposed use. She stated that the variance would not have any impairment on the zone plan and that it would be beneficial to have the storefront occupied. She also noted that the parking cannot be achieved as the site is built out which presents a hardship. Ms. Baggs stated that the change in use would have minimal impact on parking in the area. She stated that she would be in favor of the requested parking variance given the availability of municipal parking in the area.

Mr. Fleischer stated that he would be in favor of both the use and parking variances. He stated that the storefront would better serve the community as a retail space.

Mr. Reynolds stated that he would be in favor. He noted that the building has an established storefront which differentiates it from the adjacent buildings.

Mr. Allen stated he would be in favor for all the reasons previously stated by other members of the Board.

Mr. Harrison stated that he would be in favor. He stated he did not understand the location of this area of OR-4 zoning adjacent to the municipal parking lot. He also noted that there is a discrepancy between the existing zoning and the master plan for the area. He stated that the subject property is different from adjacent properties, as it has a storefront and has a history of retail use. He stated that the proposed retail use would be appropriate for the space.

Mr. Harrison stated that a condition of the approval should be that each of the three uses occupying the building shall be allocated one space in the rear parking area.

A motion was made by Mr. Fleischer, seconded by Mr. Moore to approve the application with the condition stated by Mr. Harrison.

The application was approved unanimously.

**ADJOURNMENT**

A motion to adjourn was offered by Mr. Reynolds, seconded by Ms. Baggs. The meeting was adjourned at 9:05pm.

Respectfully submitted,

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

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