



*Graham Petto, P.P., AICP
Assistant Planner
Department of Planning and Community Development
gpetto@montclairnjusa.org*

MINUTES OF THE BOARD OF ADJUSTMENT February 7, 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. McCullough, Mr. Moore, Mr. Sullivan and Mr. Petto. Mr. Allen and Ms. Daye were excused.

2017 BOARD OF ADJUSTMENT ANNUAL REPORT:

Mr. Harrison introduced the 2017 Annual Report for review by the Board. A few edits to the report were offered by Ms. Baggs, Mr. Reynolds and Mr. Fleischer. A motion was made by Mr. Fleischer, seconded by Ms. Baggs to approve the Annual Report as amended. The motion was approved unanimously.

RESOLUTION:

Resolution for [App. 2523: 25 Valley Road. JU LLC.](#) Use variance for retail & service use in the OR-4 zone district.

Mr. Harrison introduced the resolution to the Board. A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the resolution. The resolution was approved unanimously with Mr. McCullough abstaining.

NEW BUSINESS – RESIDENTIAL:

[App. 2539: Vivek Bhargava. 8 Christopher Court.](#) Bulk variance of side yard setback in R-1 zone for deck.

Ms. Baggs recused herself from consideration of the application.

Mr. Harrison introduced the application for the Board. Present for the application was the property owner Vivek Bharagava.

Mr. Bharagava reviewed the variance request before the Board. He noted that the plan is to install a small deck over an existing patio at the rear of the dwelling. He stated that the additional deck area would be over the maximum permitted building coverage for the lot. He noted that the deck would be adjacent to the existing driveway and parking area. He stated that the deck would align with the exit door from the kitchen, which is up a few steps from the existing patio.

Mr. Fleischer asked if the proposed deck would expand over the paved parking area. Mr. Bharagava replied no.

Mr. Moore asked if the deck would be visible from adjacent properties. Mr. Bharagava stated that there was landscaped screening on the property and noted that the location of the proposed deck is in the rear of the dwelling.

No questions or comments from the public were offered.

Final comments from the Board were then accepted.

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

Mr. Moore stated that he would be in favor of the variance request and noted that there would be no detriment to the public.

Mr. Fleischer stated that he would be in favor of the variance based on the testimony by the applicant.

Mr. Reynolds stated that he would be in favor of the variance request as the lot is undersized for the area.

Mr. Harrison stated that the houses in the area are oversized for the lots on which they were built. He stated that the proposed deck addition should be limited to only cover the existing patio area.

A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the variance with the condition as stated by Mr. Harrison. The application was approved unanimously.

[App. 2540: Margaret Valentine. 28 Carteret Street.](#) *Bulk variance of side yard setback in R-1 zone for HVAC equipment.*

Ms. Baggs returned to the Board.

Mr. Harrison introduced the application for the Board. Present for the application was Margaret Valentine and Kathleen Gebhardt.

Ms. Valentine and Ms. Gebhardt reviewed the application for the Board. They stated that the plan is to install a central air conditioning system in the dwelling and to locate two condensing units in the side yard. They noted that property is a corner lot with frontage on Parkside and Carteret Street. They noted with two frontages, they were limited to the side and rear of the dwelling for placement of the HVAC units, and there is a deck to the rear which limits locating the units in this area.

Questions from the Board were then accepted.

Mr. Fleischer noted the setback of the deck in the submitted photos with the application. He noted that it is setback further from the side property line than the dwelling and asked if the deck conformed to the 6 foot side yard setback. Ms. Gebhardt stated that it appeared likely that the deck was constructed to meet the yard requirement.

Mr. Moore asked about the sound level of the proposed units. Ms. Gebhardt stated that they did not know this information but noted that the units for the adjacent property are located in the adjacent side yard to the proposed unit location.

Ms. Baggs asked for a review of the proposed units and their dimensions. Ms. Valentine reviewed the proposed unit specification sheets provided with the application.

Mr. Harrison noted the size of the proposed units and the available side yard space, which varies between 3 and 6 feet. He stated that the units should be setback at least 2.5 feet from the side property line.

No questions or comments were offered from the public.

Final comments from the Board were then accepted.

Mr. Moore stated he would be in favor of the application and noted that the units could be placed to meet the 2.5 foot setback. He stated that the installation of HVAC would be a benefit to the home.

Ms. Baggs stated that she would be in favor of the application, noting that the property is oddly shaped at the corner. She stated that there are limited options to place the units on the property.

Mr. Fleischer stated he would be in favor.

Mr. Reynolds stated he would be in favor.

Mr. McCullough stated that he would be in favor, and noted that the units would not be intrusive.

Mr. Harrison stated that he would be in favor. He noted that the location of the house on the corner lot and the rear deck limited options to locate the unit. He stated that a setback of at least 2.5 feet should be maintained from both units. He stated that there would be no detriment or impairment of the zone plan of the application.

A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the application with the condition stated by Mr. Harrison. The application was approved unanimously.

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. (Materials previously distributed)*

Mr. Harrison recused himself from the application.

Mr. Trembulak, attorney for the applicant, stated that the applicant requests that the application be carried to the March 7, 2018 meeting of the Board due to a lack of members to hear the application. He stated that the applicant would consent to an extension of time to act.

The Board announced that the application would be carried to the March 7, 2018 meeting date with no further notice.

NEW BUSINESS – NON-RESIDENTIAL:

[App. 2528: 41 Plymouth Street. Sustainable Sanctuary Homes, LLC.](#) *Use variance for two-family dwelling in R-1 zone district.*

Mr. Harrison introduced the application before the Board. Present for the application was attorney Alan Trembulak and Mr. Henry Liedtka, applicant.

Mr. Trembulak reviewed the proposed application for the Board. He noted that the proposal is to eliminate the non-conforming medical office use on the first floor of the subject building and convert the building into a 2-family dwelling. He noted that the building was originally constructed as a residence.

Mr. Liedtka introduced Exhibit A-1, a series of slides showing other developments constructed by the applicant in the Township.

Mr. Trembulak then introduced Mr. Paul Sionas, architect for the applicant. Mr. Sionas introduced Exhibit A-2, a PowerPoint presentation reviewing the proposed changes to the building. Mr. Sionas presented the plans to the Board. He noted that the proposed units would be configured side by side within the existing dwelling, each having entry doors from the first ground floor level.

Questions from the Board were then accepted.

Ms. Baggs asked if the structure had been non-conforming since the 1950s. Mr. Liedtka stated that it was not apparent when the second dwelling unit on the upper floors was created. Mr. Petto also noted that records in the Department were not clear on the exact date of creation of the additional unit.

Ms. Baggs asked if there was an existing survey of the property. Mr. Sionas replied yes and submitted the survey as Exhibit A-3.

Mr. McCullough asked about the square footage of each of the proposed units. Mr. Sionas stated that Unit A would be 2,695 sq. ft. and Unit B would be 1,816 sq. ft. Mr. Sionas stated that the discrepancy in unit size was a result of maintaining the existing staircases in the building as well as some partition walls.

Mr. Liedtka noted that the units would have 3-bedrooms each.

Mr. Moore asked if there would be any exterior changes to the building. Mr. Sionas replied no, stated that only that one entry from Plymouth Street to the former medical office would be eliminated. Mr. Liedtka stated that the historic windows would be restored and preserved.

Mr. Harrison asked for a review of the entry doors to the proposed units. Mr. Sionas reviewed and noted that each unit will have an entry door.

There were no questions from the public for Mr. Sionas.

Mr. Trembulak then introduced David Karlebach, professional planner for the applicant. Mr. Karlebach introduced Exhibit A-4, a planner analysis document including photographs and an area map of the site.

Mr. Karlebach reviewed the exhibit. He noted that the proposed application is for a conversion of the existing building only. He stated that the change would modify the occupancy of the building and there would be no change to the footprint of the building.

Mr. Karlebach stated that the site is well-suited for the conversion as the existing dwelling is 4,400 sq. ft. in size and has living space on 3 floors currently.

Mr. Karlebach reviewed the positive and negative criteria for the application. He also noted that the application would remove the medical office and the commercial signage at the property. He also stated that the plan would preserve the historic home on the lot.

Questions from the Board were then accepted.

Mr. Fleischer asked about the Master Plan and noted concern about the protection of the R-1 one family zone, which the property is located within. Mr. Karlebach stated that the application will preserve the existing dwelling structure on the lot and eliminate the non-conforming medical use on the site.

Ms. Baggs asked about the legality of the 2 upper residential units. Mr. Petto stated that he had reviewed the historic property records for the subject property and there was no clear record with the Township on the creation of the second upper floor residential unit. He stated that the unit has been considered a grandfathered condition.

No questions from the public were offered to Mr. Karlebach.

Mr. Trembulak then summarized the application for the Board. He noted that the application has many unique aspects. He stated that the application will eliminate the non-conforming medical use and preserve the existing historic dwelling. He also noted that the application will retain the dwelling, which appears as a single-family dwelling in the neighborhood. He stated that the subject property is particularly suited to accommodate the requested two-family use.

Final comments from the Board were then accepted.

Ms. Baggs stated that the testimony presented by the applicant supports granting of the requested variance. She also noted that testimony from Mr. Karlebach clearly explained the benefits of the application.

Mr. Fleischer stated that he would be in favor of the application. He stated that the proposed conversion of the building represented a good development for the site. He stated that the elimination of the medical use and return to a residential use is more favorable. He also noted that preservation of the historic building is a benefit.

Mr. Reynolds stated that he would be in favor of the application. He stated that the elimination of the medical use was a benefit. He also noted that the applicant should consider an entry to each unit from Plymouth Street.

Mr. McCullough stated that he would be in favor of the application. He stated that the size disparity of the units will accommodate a variety of housing types in the dwelling. He also noted concern about property maintenance at the site under a condominium ownership structure.

Mr. Moore stated that he would be in favor and agreed with the concerns of Mr. McCullough.

Mr. Harrison stated that he would be in favor of the applicant. He stated that on balance the property is more conforming to the zone district under the proposed plan. He stated that the removal of the doctor's office is a positive for the site and that the dwelling will retain the appearance of a single-family dwelling.

Mr. Harrison reviewed the conditions of the application:

1. No additions to the dwelling shall be permitted.
2. As stipulated by the applicant, the property and improvements shall be subject to the condominium form of ownership. The condominium documents shall provide for a mechanism for dispute resolution involving property maintenance issues subject to review and approval by the Board Attorney.
3. The applicant shall be bound by representations made on its behalf by its attorney and professionals during the course of the public hearing.
4. 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.

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

App. 2531: 87-89 Valley Road. BG Holdings, LLC. *Use variance for medical office in the R-2: Two-Family zone district.*

Mr. Harrison recused himself from the application.

Mr. Petto noted that a letter from the attorney representing the applicant had been received requesting the application be carried. The Board announced that the application would be carried to the March 7, 2018 meeting of the Board with no further notice.

App. 2532: 224 Orange Road. Montclair Kimberley Academy. *Conditional use variance and site plan application for addition to school in R-1: One-Family Zone District.*

Mr. Harrison returned to the Board.

Ms. Baggs recused herself from consideration of the application.

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

Mr. Trembulak summarized the application for the Board. He noted that the proposed addition to the existing school building would include a multi-purpose "cafetorium" serving as both a cafeteria and an auditorium.

Mr. Trembulak also noted that the application plans to add 30 on-site parking spaces and relocate queueing for pick-up and drop-off of students onto the site through a new entrance driveway. He stated this is proposed to reduce the amount of queueing that currently occurs on adjacent streets in the neighborhood.

Mr. Trembulak then introduced Katherine Davison, the Chief Financial Officer for the Montclair Kimberley Academy.

Ms. Davison stated that MKA has maintained a school at this site since 1925. She stated that the campus is home to the pre-kindergarten through third grade program. Ms. Davison stated that the facility has a capacity of about 224 students.

Ms. Davison reviewed the proposed space to be provided in the addition. She stated that the addition will include the cafetorium space, a kitchen area to prepare food on-site and a new admissions office. She stated that currently, the facility does not have a cafeteria with prepared lunches transported to the school and students eating in their classroom. She stated that that proposed addition will improve the site.

Ms. Davison also reviewed the existing pick-up and drop-off operation at the site, which is managed by school staff.

Ms. Davison stated that currently there are 53 on-site parking spaces. She noted that there are 49 school employees. She stated that parking is difficult during school events.

Ms. Davison noted that a proposed 6-foot fence is to be installed along the adjacent property lines to better screen the site from adjacent residences.

Finally, Ms. Davison noted that 2 community meetings have been held with the neighbors to review the plans and receive input.

Questions from the Board were then accepted.

Mr. McCullough asked how many households were represented at the community meetings. Ms. Davison said a total of about 15-20 households attended the two community meetings.

Mr. Harrison asked about the student capacity of the building and the current enrollment. Ms. Davison stated that capacity is 224 students and that current enrollment for this year is 213 students. Mr. Harrison asked if the school would accept a condition that enrollment be capped at 224 students. Ms. Davison replied yes.

Mr. Harrison asked if most students were picked up by car. Ms. Davison replied yes, saying that roughly 150 students are picked up by about 70 cars.

Mr. Harrison asked when parking demand is highest at the school. Ms. Davison stated parking demand at the school is highest during events, such as the winter and spring concerts as well as graduation. She stated that each school year there are typically 7 major parking events where demand of parking for 200 cars is present. Ms. Davison stated that smaller events can be parked within the proposed parking lot. She stated that these include events for individual classes, admissions events and orientations.

Mr. Harrison asked if the school alerts neighbors in the area of these scheduled events. Ms. Davison stated that they do alert area residents and for certain events provide valet service to park cars off-site.

Mr. McCullough asked if the school anticipated an increase in these events with the proposed new cafetorium. Ms. Davison replied no stating that the school events are driven by the curriculum and that they already have enough events scheduled.

Mr. McCullough asked if there would be any use of the facility by outside groups. Ms. Davison replied no.

Mr. Fleischer asked about food service at the school, noting that the school plans to prepare food on-site under the proposed addition. Ms. Davison stated that an outside food service provider is used to serve lunch at the school. She stated that meals are

pre-cooked and warmed on-site. She stated that lunch is served on carts in the hallways and students eat in their classrooms.

Mr. Fleischer stated that preparation of food on-site will create a number of other considerations, including increased waste disposal. He stated that the school will have to consider increasing frequency of pick-up. Ms. Davison stated that there would be steps taken to address increased waste, including the new proposed trash enclosure as planned.

Mr. Trembulak then called Ms. Daniela Holt Voith, architect for the applicant. Ms. Voith introduced Exhibit A-1, a PowerPoint presentation reviewing the proposed improvements at the site.

Ms. Voith reviewed the PowerPoint for the Board, reviewing only those slides pertaining to the architectural design of the project.

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

Mr. Fleischer asked about the location of the dumpster enclosure in relation to the proposed kitchen area. Ms. Voith stated that the siting of the enclosure would be discussed by the engineer, but noted that sidewalks are proposed to access the enclosure from the building.

Mr. Fleischer asked about the configuration of the auditorium and use of the space. Ms. Voith reviewed the cafetorium, noting storage areas for seating and risers, as well as configuration of seating for use as a dining space.

Mr. McCullough asked about the existing gymnasium and if any changes were proposed for the space. Ms. Voith reviewed the configuration of the existing gym with a stage area. She noted that the new auditorium space would have a better configuration with easier access to the elevated stage area.

Questions from the public were then accepted.

Ms. Erika Munter, 221 Orange Road, asked for a review of the proposed size of the new addition. Ms. Voith stated it would be about 11,483 sq. ft. in size.

Ms. Munter asked about the proposed eastern elevation of the building, fronting Orange Road. She noted that the blank wall as proposed does not appear aesthetically pleasing. Ms. Voith stated that there would be additional landscape treatments on this side of the building to soften the wall.

Mr. Harrison also noted the solid wall facing Orange Road. He noted the location of the proposed entrance to the building at the driveway/parking area. He asked if the proposed eastern façade could be more broken up and visually interesting. Ms. Voith stated that this could be reviewed.

Mr. Fleischer stated that it would be better to incorporate additional glazing, light and color at the corner of the building in this area to serve as a better visual entrance to the school building.

Mr. Trembulak then introduced Mr. Leonard Savino, professional engineer for the applicant.

Mr. Savino reviewed the site plan slides contained with the PowerPoint introduced under Exhibit A-1. He reviewed the proposed configuration of the parking area, entrance and exit driveways, and other site improvements.

Mr. Savino reviewed the variances sought by the applicant. He also noted receipt of the memo dated February 4, 2018 from Board Engineer Tom Watkinson and stated that the applicant would comply with all recommendations.

Following Mr. Savino's presentation, questions from the Board were accepted.

Mr. Fleischer noted the location of the handicap parking far from the entry point to the building. Mr. Fleischer also noted concern about the location of parking areas around the site and not centralized in one location. He stated that the location of some parking spaces along the queue line for pick-up and drop-off will block vehicles from exiting these spaces and require pedestrians to walk through the queue line to access parked vehicles.

Ms. Davison reviewed the proposed operation for drop off, which would use only one lane of the queueing in the driveway, as drop offs are spaced over time. Ms. Davison also reviewed the proposed pick up operation, which would use both queue lines for vehicles. She noted that staff will be at the end of the queue line to assist students entering vehicles and easing exit operation from the site.

Mr. Fleischer stated that a better configuration should exist on the site for both parking and circulation.

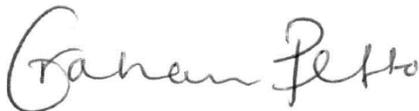
Given the time, the Board agreed to continue the application to the March 7, 2018 meeting of the Board of Adjustment. It was announced that the application would be continued with no further notice.

[App. 2525: 320 Orange Road. New Cingular Wireless PCS, LLC. Conditional use variance and site plan application for installation of wireless telecommunications facility. The applicant has requested the matter be adjourned to the March 21, 2018 meeting of the Board of Adjustment.](#)

ADJOURNMENT

A motion to adjourn was offered by Mr. Fleischer, seconded by Ms. Reynolds. The meeting was adjourned at 11:15pm.

Respectfully submitted,



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