



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

MINUTES OF THE BOARD OF ADJUSTMENT April 11, 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. Allen, Mr. Simon, Ms. Harris, Mr. Caulfield, Mr. Sullivan and Mr. Petto.

Mr. Harrison welcomed the new members to the Board.

APPROVAL OF MINUTES:

March 28, 2018 Minutes

Chair Harrison introduced the minutes for review by the Board. A few edits to the minutes were offered. A motion was made by Mr. Fleischer, seconded by Ms. Baggs to approve the minutes as amended. The minutes were approved unanimously, with Ms. Harris and Mr. Caulfield abstaining.

RESOLUTION:

Resolution for [App. 2522: 40 South Fullerton Avenue. Willow Street Partners.](#)
Use variance application for single-family development on church property in the R-1 zone district.

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

Mr. Fleischer introduced the resolution to the Board. A motion was made by Ms. Baggs, seconded by Mr. Reynolds to approve the resolution as submitted. The motion was approved unanimously with Mr. Harrison, Mr. Allen, Ms. Harris and Mr. Caulfield abstaining.

Resolution for [App. 2536: Michael & Michelle Lepak. 316 North Fullerton Avenue.](#)
Bulk variance of front yard setback in R-1 zone for HVAC equipment.

Mr. Harrison introduced the resolution to the Board. A few edits to the resolution were offered. A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to approve the resolution as amended. The motion was approved unanimously.

NEW BUSINESS – RESIDENTIAL:

[App. 2547 – 114 Upper Mountain Avenue. Dr. & Mrs. Charbel Chalfoun.](#) *Bulk variance for side & rear yard setback of garage accessory structure.*

Mr. Harrison introduced the application to the Board. Present for the application were the applicants, Dr. and Mrs. Chalfoun and architect for the applicant George Held.

Mr. Held reviewed the application for the Board. He noted that the proposal is to construct a carport addition to the existing garage on the property. He stated that the proposed carport was wider than standard to allow for opening of doors of the vehicle, a new door to the mechanical room and access to a new trash enclosure.

Mr. Held noted that the applicant is currently constructing a retaining wall in this area of the property to accommodate an uncovered parking area and trash enclosure. Mr. Petto noted that building permits have been obtained by the applicant for this work and that the permits have been reviewed by the Township's Engineering Bureau.

Mr. Held introduced and reviewed Exhibit A-1 through A-4, a series of photos of the existing conditions of the subject property.

Questions from the Board were then accepted.

Mr. Fleischer stated that the proposed width of the new garage was a concern. He noted that the proposed garage is too wide at a proposed width of 17 feet. He stated that the lot is not very narrow and has sufficient width.

Mr. Simon referred to one of the submitted Exhibit photographs and asked if the proposed addition would block a neighbor's view. Ms. Chalfoun stated that the adjacent dwelling was much higher and would not be impacted.

Mr. Allen asked about the contents of the existing mechanical room. Ms. Chalfoun noted that it contained a furnace and other mechanical equipment for the apartment above the garage.

The Board asked about the use of the living space above the garage. Ms. Chalfoun noted that their caretaker resides in the unit above the garage. The Board asked Mr. Petto if the unit was legal. Mr. Petto stated that it was not noted by the applicant on the submitted plans that a unit was located above the existing garage, so no research into the unit has been completed.

Mr. Allen asked about clearance around the proposed mechanical door. Mr. Held noted that the width of the carport would allow for a four-foot clearance to open this door with a car parked in the car port.

Mr. McCullough asked if the 3rd bay of the existing garage could be configured to provide a storage area and additional parking. Mr. Held stated that there is limited space to make a k-turn presently to exit the driveway safely onto Upper Mountain Avenue.

Mr. Simon asked if the existing garage could be reconfigured with a larger double door rather than the existing three smaller garage doors, which would make addition room to maneuver in an out of the garage. Ms. Chalfoun stated that there is a need for covered parking for 3 vehicles.

Mr. Moore asked for a review of the entry to the second-floor unit. Mr. Held noted there is an entry door to the garage and stairs at the rear of the garage.

Mr. Harrison asked about the location of the trash enclosure and if it could be located elsewhere away from the property line, perhaps closer to the existing garage or within the garage.

Mr. Harrison also noted the location of the "relocated AC unit" marked on the plans. He asked if a variance was being sought for this location. Mr. Held replied no and Dr. Chalfoun stated that it would comply with the setback requirements.

Mr. Fleischer stated that the carport addition should be narrowed by 5 feet to conform to the required side yard setback. He stated that the external mechanical room door was not needed as there is existing access to the space from inside the garage, as shown on the plans.

Questions and comments from the public were then accepted.

Mr. Conrad Fink, 87 Prospect Avenue, stated that the existing garage is located very close to the property line. He stated that the proposed addition would make the structure too large adjacent to his property. He submitted Exhibit O-1, a photo of the rear of the garage.

Mr. Fleischer noted that the proposed addition will comply with the rear yard setback and will not be as close to the rear property line as the existing garage.

Mr. Held reviewed the proposed addition in detail for Mr. Fink, noting that the carport would be setback to comply with the rear yard requirement.

Final comments from the Board were then accepted.

Mr. Moore stated that he was still weighing the application and would like to hear from other members of the Board.

Ms. Baggs stated that she would not be in favor of the side yard setback variance. She agreed with Mr. Fleischer's comments on the addition and stated that the proposed door to the mechanical room is causing the need to widen the addition. She stated that issuance of the side yard variance for the carport could lead to a future enclosure of the carport converting it to a full garage easily. She also expressed concerns that the second floor of the garage is used as a residence. Ms. Baggs did state that she would be in favor of the height variance requested by the applicant to align the addition with the existing garage. She stated that if the variance was granted, the use of the garage for a living space should be clarified.

Mr. Fleischer stated that he would be in favor of the height variance and not in favor of the side yard setback variance. He stated that there was not sufficient justification presented for the side yard setback variance. He stated that there is ample existing space to complete a k-turn to exit the driveway.

Mr. Reynolds stated that he would be in favor of the height variance. He also stated that he had not heard a hardship case for the issuance of the side yard setback variance. He stated that other solutions do exist.

Mr. Allen stated that he would be in favor of the height variance. He stated concern about the living space above the garage and the location of the HVAC equipment. He stated he would not be in favor of the side yard setback variance.

Mr. McCullough stated that he appreciated the architectural design and was in favor of the variance for the height. He stated that there was no argument presented by the applicant to justify the side yard setback variance. He stated that the proposed size was too large for a regular sized vehicle.

Ms. Harris stated agreement, noting that she would be in favor of the height variance and not in favor of the side yard setback variance.

Mr. Simon agreed with Ms. Harris' comments.

Mr. Harrison stated that he would be in favor of the height variance to allow the addition to align with the existing garage. He stated that the applicant failed to provide justification for the side yard setback variance. He noted that the ordinance specifies parking space dimensions of 9 feet in width, narrower than proposed by the applicant. He stated that the location of the retaining walls on the property would not justify the width of the addition. Mr. Harrison noted the following conditions of any approval by the Board:

1. The Department of Planning & Community Development shall determine if the studio apartment unit located above the garage as testified by the applicant is lawfully existing.
2. No variance relief was granted by the Board of the relocated air conditioning unit and the location of the unit must comply with all setback requirements of the ordinance.

A motion was made by Mr. Fleischer, seconded by Mr. Reynolds to deny the variance of the side yard setback and approve the variance of maximum permitted height, with the conditions, as stated by Mr. Harrison. The motion was approved unanimously.

App. 2549: 338 Highland Avenue. Seth & Claudia Riegelhaupt. *Bulk variance to construct a garage in front yard on through lot in the R-1 zone district.*

Mr. Harrison introduced the application to the Board. Present for the application were the applicants, Seth & Claudia Riegelhaupt and Diana Von Hoffman and Eric Von Hoffman.

Ms. Von Hoffman summarized the project for the Board. She noted that the property is a through lot with no rear yard. She stated that the applicant is seeking to reclaim the current parking area to the rear of the home for use as a patio space.

Mr. Fleischer noted that presently, the property has front yard parking in the garage, which is located in the front yard for Edgecliff Road.

Ms. Baggs asked if there were any photos of the site. Ms. Von Hoffman introduced Exhibit A-1 and A-2, a series of photos of the existing site for review by the Board.

Ms. Von Hoffman reviewed the proposed location of the garage and its alignment with the existing driveway.

Ms. Baggs asked if the application were to be approved if the applicant would comply with any engineering comments. Ms. Von Hoffman replied yes and noted that they have already contacted Board Engineer Tom Watkinson who has reviewed the plans and provided initial advice.

Mr. Fleischer asked for clarification of the setback distance of the proposed garage to Edgecliff Road, which was not marked. Ms. Von Hoffman stated that it was not calculated but noted that it was a good distance, and sloped down the hill from Edgecliff.

Mr. Fleischer asked about the use of the second floor. Mr. Von Hoffman noted that the garage would be constructed into the hillside and that there would be a door to access the garage from the upslope side of the garage. He stated this level would be used as storage only and would not be habitable.

Mr. Harrison noted that it appears there will be a slight increase in impervious coverage of the driveway. He also noted that the garage will act as a retaining wall in the hillside.

Mr. Simon asked about the west elevation of the garage. Mr. Von Hoffman stated that it could be screened with some plantings to limit visibility from Edgecliff Road.

Final comments from the Board were then accepted.

Ms. Baggs stated that she would be in favor of the application. She stated that hardship was present as the property has no rear yard. She stated that given the slope of the property it would be hard to locate the patio elsewhere in relation to the house. She stated that the proposed garage fits well with the dwelling. She stated that the applicant should comply with the steep slope ordinance.

Mr. Fleischer stated that he would be in favor. He stated that the second floor should not be habitable.

Mr. Reynolds stated that there would be no detriment of the application. He stated that the garage fits in context with the dwelling and is not overly sized.

Mr. Allen stated he would be in favor.

Mr. McCullough stated he would be in favor.

Mr. Caulfield stated he would be in favor.

Ms. Harris stated she would be in favor.

Mr. Simon stated he would be in favor.

Mr. Moore stated he would be in favor.

Mr. Harrison stated he would be in favor. He stated that the existing garage location is non-conforming and noted that there is no conforming location on the property. He stated that the application will make the patio area useable. He stated that the through lot situation makes this a hardship and the proposed location is logical. Mr. Harrison reviewed the following conditions of any approval:

1. The applicant shall adhere to all requirements of Montclair Code Chapter 224 – Steep Slopes and all conditions of the Board's Engineer.
2. Utility service to the second level of the garage shall be limited to electric only.

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

NEW BUSINESS – NON-RESIDENTIAL:

App. 2525 – 360 Orange Road. Willow Street Partners, LLC. *Application scheduled for dismissal.*

Mr. Harrison recused himself from the application.

Mr. Petto announced receipt of a letter from Attorney Alan Trembulak, who represents the applicant, regarding the application. He noted that the applicant has requested that the application be scheduled for the June 20, 2018 meeting of the Board. He also noted that the applicant consents to an extension of time to act on the application through July 18, 2018. The Board agreed to the extension request from the applicant.

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 announced receipt of a letter from Attorney Michael Piromalli, who represents the applicant, regarding the application. He noted that the applicant has requested to adjourn the application to the May 16, 2018 meeting of the Board. He also noted that the applicant consents to an extension of time to act on the application. Mr. Petto announced that the application would be carried to the May 16 meeting of the Board with no further notice.

App. 2537: 21 Plymouth Street. Sustainable Sanctuary Homes LLC. *Use variance to convert an existing medical office/residential to multi-family residential in the R-1 zone.*

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

Mr. Trembulak noted that the application before the Board is for the conversion of an existing medical office and two residential unit building to a three-family dwelling. Mr. Trembulak noted that the Board has reviewed a previous application for this property.

Mr. Trembulak then introduced Henry Liedtka of Sustainable Sanctuary Homes, LLC. Mr. Liedtka reviewed the proposed projected. He noted that the conversion would result in a total of 3 residential units at the site, two 3-bedroom units and one 4-bedroom unit. Mr. Liedtka stated that the plan is to modernize the building and to restore it to the original historic design, all within the existing footprint. He stated that the building is 6,500 sq. ft. in size, too large for a single-family dwelling which is the only permitted use in the zone.

Mr. Liedtka stated he has met with the neighbors to review the proposal.

Questions from the Board were then accepted.

Mr. Fleischer noted that a small addition is proposed to the front porch to modify the entry.

Ms. Baggs asked about the proposed garage parking. Mr. Liedtka stated it would be an amenity for the units, which would each have one garage space and one uncovered space.

Mr. Leidtka also noted that the units would be sold under a condominium agreement.

Mr. Trembulak then introduced Paul Sionas, architect for the applicant.

Mr. Sionas introduced Exhibit A-1, a PowerPoint presentation detailing the proposed improvements to the site.

Mr. Sionas also provided planning testimony on the application, noting that the site is particularly suited for multi-family use at such a large size. He also noted that the building will retain its appearance as a single-family dwelling and the exterior will be restored. Mr. Sionas also noted that all parking would be accommodated on-site.

Questions from the Board were then accepted.

Ms. Harris asked if the proposed garage would impact the lot coverage proposed by the applicant. Mr. Sionas noted that the coverage requirement in the ordinance is specific to principal structures.

Ms. Harris asked if the proposed AC units would be sufficient. Mr. Sionas noted that two would be replaced in their existing location and that a third would be mounted on the roof.

Ms. Baggs asked if the roof unit would be screened. Mr. Sionas replied yes, noting there is a parapet wall proposed to screen the unit.

Ms. Baggs asked about the requirement of accessory structures in rear yards. Mr. Sionas noted that there is a maximum requirement of accessory structure coverage of rear yards. He noted that the garage has been shifted forward slightly to partially locate in the side yard to account for this requirement.

Ms. Baggs asked about the entrance to Unit C, which will have a lift elevator and if the unit would be accessible. She also asked if accessible parking would be provided. Mr. Sionas stated that they are not required to provide ADA access in the building and that there is no ADA parking proposed.

Ms. Baggs asked if the entrance to Unit C could be made accessible. Mr. Sionas stated that a depressed curb or ramp could be incorporated. He also noted that there is space for one parking space to be adjacent to a depressed curb. He also noted that as proposed there is not a 5 foot by 5-foot entry area to Unit C.

Mr. Allen asked for a review of the occupancy load of the lower level of Unit B at the rear. Mr. Sionas reviewed the plans for the lower level and noted the egress points. He also noted that the building would be sprinklered.

Mr. Fleischer stated that there is lots of asphalt proposed for the site. He asked if the applicant would consider a pervious material for the paving area. He also noted that the trash and recycling is proposed at the rear of the site, and that it would have to be brought to the street for collection. He also asked if the entry to Unit B could be relocated from the rear of the building to the side of the building.

Mr. Fleischer also noted the proposed parking spaces and their impact on the sidewalk along the building. Mr. Fleischer also suggested that the trash and recycling be relocated to a more central parking island on the site.

Mr. Liedtka stated that they would consider using a pervious surface for the lot.

Mr. Fleischer noted the existing location of the AC units would require a variance. He asked that they be relocated to the wider side yard area.

Mr. Sionas stated that wheel stops could be used to protect the walkway along the building.

Mr. Fleischer stated that the parapet should be raised at the top of the building to better screen the roof mounted AC unit.

Mr. Simon asked about parking and if there would be room to maneuver a larger vehicle in the parking area. Mr. Sionas replied yes.

Mr. McCullough asked if the proposed roof mounted deck for Unit C would be private for that unit only. Mr. Sionas replied yes.

The Board noted that trash collection for the site would be provided by the Township as this is a residential site.

Mr. Harrison asked if the applicant had reviewed the Board Engineer memo on the application. Mr. Sionas replied yes. He reviewed the proposed site lighting to illustrate compliance with Township regulations.

Mr. Harrison asked for a review of the screening of the parking area from the adjacent property. Mr. Sionas reviewed the existing screening.

Comments from the public were then accepted.

John Falcone, 25 Plymouth Street, stated that he supports the project. He noted that he has lived in the area for 25 years and always knew that the medical use would not remain. He stated that the proposal is the right size for the site and will enhance the neighborhood. He stated appreciation for the proposed restoration to better mimic the historic building.

Mr. Curt Cozart, 26 The Crescent, stated that he also was in favor of the application. He noted that he is the adjacent neighbor to the rear of the subject property. He stated that he had storm water concerns that have been addressed by the applicant.

Mr. Trembulak then summarized the application for the Board. He noted that the proposed 3-family dwelling is appropriate for the site. He also noted that the applicant has worked with the neighbors to improve the project and gain their support.

Final comments from the Board were then accepted.

Mr. Fleischer stated that he would be in favor. He stated that the proposed use is within the existing building on the site. He noted that the size of the existing building and its former use as a medical office makes the site unique. He stated that the elimination of the medical office use is more conforming with the R-1 zone and will be a significant improvement. He stated that the trash and recycling enclosure should be relocated to a more central location. He also noted that this would expand the rear yard space. He also stated that additional pervious surface should be considered.

Mr. Reynolds stated that he would be in favor. He stated that the proposed design is a good reference to the original design of the building. He stated that the rear entry to

Unit B should be relocated to the side of the building. He stated that the proposed use is not too intensive for the site and noted that the applicant is proposing more parking than is required.

Mr. Allen stated that the plan fits the site. He stated that the three-dwelling will fit in with the neighborhood and appear as a one-family dwelling.

Mr. McCullough stated that he would be in favor. He stated appreciation for the applicant's outreach with the neighbors. He stated that the design contributes to the greater good of the neighborhood and noted that support from the neighbors is important.

Mr. Caulfield stated that his concerns have been abated by the applicant's presentation. He stated he would be in favor.

Ms. Harris stated that she would be in favor, but expressed some concern about the tight size of the proposed parking area.

Mr. Simon stated that he agreed with previous comments and would be in favor.

Mr. Moore stated that he would be in favor, noting that the proposal will add value to the neighborhood. He stated that the transition from medical use would be beneficial to the neighborhood.

Ms. Baggs stated that she had no additional comments and agreed with previous statements by the Board.

Mr. Harrison stated that he would be in favor of the application. He stated that the elimination of the medical office use and conversion to residential only was a benefit. He stated that the size of the existing building justified the conversion to a multi-family dwelling. He stated that he had no concerns with the "c" variances sought by the applicant. He noted that that the application is an improvement over the previous application for the site. Mr. Harrison reviewed the proposed conditions:

1. 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 (e.g. trash & recyclable collections, landscaping & lawn care, and snow removal) subject to review and approval by the Board Attorney.
2. The two existing air conditioning units located on the easterly side of the property shall be relocated to a conforming location in the rear yard. In addition, the third-floor air conditioning unit shall be appropriately screened as not to be visible from adjacent properties.
3. The applicant shall comply with and satisfy comments 1 through 8 contained in the January 6, 2018 review memorandum prepared by W. Thomas Watkinson, P.E., P.P., Board Engineer.
4. The garage shall be relocated approximately one foot to the south so as not to occupy more than 25% of the rear yard consistent with Section 347-22A.
5. The applicant shall install wheel stops for the outdoor parking spaces to prevent overhang onto the sidewalk.
6. The applicant shall comply with the affordable housing obligations contained in Article XXVI of the Zoning Ordinance.

7. The trash enclosure shall be relocated to the south and screened by landscaping.

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

App. 2542: 151 Forest Street. Erie Street Partners, LLC. *Use variance for medical office in the R-2: Two-Family zone district.*

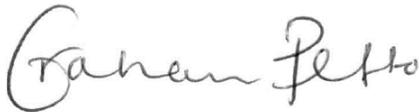
Mr. Harrison recused himself from the application.

Mr. Fleischer introduced the application to the Board. Present for the applicant was attorney Alan Trembulak. Mr. Trembulak noted that given the late hour, the applicant would request to carry the application to the April 25, 2018 meeting of the Board. The Board agreed to carry the application. It was announced that the application would be carried to the April 25 meeting of the Board with no further notice.

ADJOURNMENT

A motion to adjourn was offered by Ms. Baggs, seconded by Mr. McCullough. The meeting was adjourned at 11:20pm.

Respectfully submitted,



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