



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT April 25, 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 (arrived at 7:45), Ms. Baggs, Mr. McCullough, Mr. Moore, Mr. Allen, Mr. Simon, Ms. Harris, Mr. Caulfield, Mr. Sullivan and Mr. Petto.

APPROVAL OF MINUTES:

April 11, 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.

RESOLUTION:

Resolution for [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 resolution to the Board. A few edits were noted to the draft resolution. A motion as made by Mr. Fleischer, seconded by Ms. Baggs to approve the resolution as amended. The motion was approved unanimously.

Resolution for [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 resolution to the Board. A motion was made by Mr. Fleischer, seconded by Ms. Baggs to approve the resolution as submitted. The motion was approved unanimously.

Resolution for [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 resolution to the Board. A few edits were noted to the draft resolution. A motion as made by Mr. Fleischer, seconded by Mr. Allen to approve the resolution as amended. The motion was approved unanimously.

OLD BUSINESS:

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

Mr. Trembulak summarized the previous testimony on the application for the Board. Mr. Trembulak then introduced Mr. Alan Lothian, traffic expert for the applicant.

Mr. Lothian introduced Exhibit A-6 a traffic impact study prepared for the application. Mr. Lothian reviewed the study in detail for the Board. He noted that there would be no increase in traffic as the number of students at the school will not be changing as a result of the application. He also reviewed the proposed queueing configuration and use of the three driveways accessing the site.

Mr. Lothian then introduced Exhibit A-7, a PowerPoint slide illustrating the traffic and circulation of the site. He noted that under the proposed plan, an additional 15 vehicles would queue on the property rather than adjacent streets. Mr. Lothian reviewed a series of slides illustrating the timing of pick-up at the conclusion of the school day; demonstrating the bus and vehicular pick up on the site.

Mr. Lothian also noted that the accessible parking spaces have been relocated closer to the main entry door. He also noted that the proposed number of spaces is now 70 total for the site, an increase over the existing 53 spaces on the site. Mr. Lothian stated that originally the applicant had proposed 83 spaces, but reduced that number to 70 in response to comments from the neighbors.

Questions from the Board were then accepted.

Mr. Fleischer asked about the relocated accessible spaces, and asked if they are now parallel parking spaces. Mr. Lothian replied yes.

Mr. Fleischer asked about the driveway width and noted that they are narrow and could be obstructed if a vehicle becomes disabled. Mr. Trembulak noted that the driveway width had been reduced in response to the neighbors.

Mr. Allen asked about the dimension of the one-car driveway. Mr. Lothian stated it would be 12 feet.

Mr. Harrison noted inconsistencies within the provided slides, noting some showed the relocated accessible spaces and some showed previous versions of the plans. Mr. Lothian clarified the correct plan for the Board for reference.

Mr. Harrison stated concern about visibility at the intersection of Orange Road and Melrose Place with vehicles attempting to cross the queued line of traffic. Mr. Lothian stated that the cars that visibility would be no different than if the cars were parallel parked along the street in this location.

No questions from the public were offered for this witness.

Mr. Trembulak then introduced Robert Douglas, an architect for the applicant. Mr. Douglas reviewed the changes to the plans from the previous version reviewed by the

Board. He noted modifications to the proposed canopy along the eastern façade and the modifications to the upper screening on the proposed addition.

Questions from members of the Board were then accepted.

Mr. Fleischer asked if the applicant had considered extending the corridor along the northern side of the proposed addition to the corner to increase glass in this area of the addition. Mr. Douglas stated that the applicant had concerns about the extension of the corridor, as there is a proposed storage area at the end of the corridor and also noted concerns about security with respect to an additional entry to the building.

Mr. Allen asked if the addition would be attached to the existing building. Mr. Douglas replied yes.

Questions from members of the public were then accepted.

Mr. Paul Horn, 231 Orange Road, asked about the louvered screen proposed for the mechanical equipment and whether it would attenuate the sound levels from these units. Mr. Douglas reviewed the required decibel levels and noted that the applicant will meet the requirement from the street, where it is to be measured. He also noted that the equipment supporting the kitchen facility would only be in operation from 10:30am to 12:00pm during school days.

Mr. Horn asked if other plans or configurations of the addition had been considered by the applicant. Mr. Douglas stated that the applicant had previously worked with another architect to evaluate alternatives. He noted that the current architect on the project has only worked on the configuration currently before the Board.

Mr. Horn asked if the building would be visible from the southern driveway entrance to the site. Mr. Douglas replied yes, but noted that landscaping would be planted to provide some screening.

Mr. Horn asked if the driveway would be in the same location as presently. Mr. Douglas stated it would generally be in the same location, with some slight adjustments.

Mr. Trembulak then introduced Mr. Len Savino, engineer for the applicant.

Mr. Savino reviewed the revised lighting plan for the Board. He noted that the applicant will require a waiver from the site plan lighting standards, as the required light levels along the southern property line will be exceeded. He also noted that the number of pole-mounted lights has been reduced.

Mr. Savino also noted that a total of 75 trees would be removed from the site, including 8 that are larger than 24 inches in diameter. He stated that the applicant is proposing to plant 73 new trees on the site in addition to four street trees.

Mr. Trembulak asked if the lighting would be on a timer. Mr. Savino replied yes, noting that all site lighting would turn off at 7pm, except for building mounted lights. He also noted that lights may stay on longer on days with special events.

Mr. Savino provided responses to all comments provided by Mr. Watkinson, the Board's Engineer.

Questions from the Board were then accepted.

Mr. Simon asked which lights would remain on after 7pm. Mr. Savino stated that all building mounted lighting would remain on for security.

Mr. McCullough asked about the proposed pole mounted light height. Mr. Savino stated that they would be the same as the existing height.

Mr. Harrison reviewed condition 2 of Mr. Watkinson's memo. He also asked for clarification of the site plan based on prior discussion by Mr. Lothian.

Mr. Fleischer asked about trash removal from the site. Mr. Savino noted the location of the trash enclosure and stated that trash would be removed as it presently is removed.

Questions from members of the public were then accepted.

Erika Munter, 221 Orange Road, stated appreciation for the work by the applicant. She asked how compliance with the site plan would be handled. Mr. Petto stated that there will be a site inspection prior to issuance of a Certificate of Occupancy to ensure compliance with the Board's resolution.

Mr. Harrison asked if there would be any other signage at the site in addition to the proposed sign on the new addition. Mr. Savino stated that the existing free-standing sign would be retained.

Mr. Trembulak then introduced James Castelli, Director of Physical Plant for the applicant.

Mr. Castelli stated that waste is transported to the dumpster by staff and that waste is removed from the site twice per week.

Questions from the Board were then accepted.

Mr. Fleischer asked about food preparation at the site. Mr. Castelli noted that there is currently food preparation at the site and a kitchen facility. Mr. Fleischer stated that there was never any prior testimony by the applicant that there is currently food preparation at the school. He noted that the applicant had testified that lunch was delivered to the site and distributed to the students.

Mr. Moore asked if the school had evaluated composting for food waste. Kathryn Davison, Chief Financial Officer for the school, stated that they have evaluated composting but have had difficulty identifying a vendor to provide the service.

Mr. Moore asked when waste would be removed from the site. Mr. Castelli stated that it is collected after school hours.

Robin Stamp, 227 Orange Road, asked about deliveries to the site. Mr. Castelli stated that under the proposed plan, deliveries would come through the southern driveway and enter at the southeastern door adjacent to the proposed kitchen facility. Ms. Stamp stated that there should be a limitation on the hours of deliveries to the site.

Mr. Trembulak then introduce Sean Moronski of Langan Engineering to provide planning testimony on the application.

Mr. Moronski reviewed the proposed site improvements and the variances sought by the applicant. He noted the condition of the driveways is existing. Mr. Moronski reviewed

the benefits of the application to the site and the overall improvements provided by the application.

Questions from members of the public were then accepted.

Ms. Belinda Briggs, 215 Orange Road, asked for clarification of the fence height along 210 Orange Road. Mr. Moronski noted that it would be 4.5 feet in height, as requested by the homeowner.

Final comments on the application from the public were then accepted.

Paul Horn, 231 Orange Road, thank the Board and the school for the testimony and opportunity to provide comments. He stated that the school has not made enough effort to address the proposed architecture and design of the new addition. He stated that the proposed design is very institutional and not reflective of the residential neighborhood. Mr. Horn noted concerns about the south side of the building and the proposed lighting and setbacks in this area, particularly. He stated that the long term value of the adjacent property at 228 Orange Road will be diminished and that this dwelling should be protected.

Mr. Trembulak then summarized the application for the Board. He noted that the applicant has conducted extensive outreach to the neighborhood on the application, holding three meetings. He stated that the plan represents a substantial improvement to the site. He also noted that the applicant is not seeking a setback variance on the south side of the property.

Final comments from the Board were then accepted.

Mr. Moore stated that he would be in favor. He noted that the applicant has taken the enhancement of the school into consideration while also meeting with the neighbors. He stated that he agreed with Mr. Fleischer regarding the narrow driveway and possible obstruction when a vehicle is disabled. He stated he would be in favor.

Mr. Fleischer stated he would be in favor of the application. He stated that the internal traffic issues could be better addressed. He stated that the narrow entry and exit driveways are a concern, but noted that many initial concerns about circulation have been addressed. Mr. Fleischer stated that he is concerned about the design of the building and the blank wall which will front Orange Road.

Mr. Reynolds stated that he would be in favor of the application. He stated that the applicant has addressed many concerns of the Board. He also noted that the application has attempted to reduce the queueing of cars along Orange Road.

Mr. Allen stated that he had concerns about the cars in front of the building and limited access. He stated that the northernmost driveway should be widened to maybe 18 feet to accommodate passing of disabled vehicles.

Mr. McCullough stated that he would be in favor. He stated that he understands the traffic situation present in the neighborhood as a result of the school. He stated that the addition will not increase enrollment at the school, nor will it increase the number of cars at the school. He stated that the applicant has attempted to alleviate traffic concerns. He stated that the addition is large in size but noted there are no clear detriments to the plan.

Mr. Caulfield stated he would be in favor.

Ms. Harris stated she would be in favor. She agreed with Mr. Horn's comments on the impact of the property at 228 Orange Road. She stated that additional screening would be good to buffer this property. She stated that the timing of site lighting would be good for the site.

Mr. Simon stated that his only concern is regarding circulation. He stated that the applicant will rely on staffing to control traffic. He stated he would be in favor.

Mr. Harrison stated that he would be in favor. He stated that the conditions of the use from the ordinance are not largely unmet are all existing conditions and have been so for a long time. He stated that there would be no increase in traffic from the application. On the front yard parking, Mr. Harrison noted that there is no conforming location to add parking spaces. He stated that he did not have any concerns about the requested fence variance as it would screen the neighbors. He also stated that he had no concern about the requested lighting waiver and noted that the timing of lighting would improve the situation.

Mr. Harrison stated that he had no problem with the waivers for the aisle width, noting that it was largely staff parking on the site. He noted that there would be no detriment to the public good and no impairment of the zone plan by the application.

Mr. Harrison reviewed the conditions of any approval:

1. The applicant shall comply with and satisfy comments 1, 3, 5, 6 and contained in the April 18, 2018 review memorandum prepared by W. Thomas Watkinson, P.E., P.P., Board Engineer. With respect to comment 2, the applicant shall modify the plans to provide perforated pipe and 6 inches of clean fill under the perforated pipe. The depth of clean fill shall be increased if necessary due to soil conditions.
2. All lights except for the building mounted scone lights shall be turned off no later than 7 p.m. and no later than 9 p.m. for special events.
3. Service vehicle operations shall be limited to the hours between 7 a.m. and 7 p.m.
4. Enrollment shall not exceed 224 pupils.
5. Any use of the premises by other than MKA shall be limited to a use where parking can be fully accommodated onsite.
6. A system shall be put into place for notification of neighbors of special school events.
7. The northerly driveway shall be increased to 18 feet wide.
8. The applicant shall be bound by all representations made on its behalf by its attorney and professionals during the course of the public hearings.
9. 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. Moore, seconded by Mr. Fleischer to approve the applications, with the conditions stated by Mr. Harrison. The application was approved unanimously.

NEW BUSINESS – NON-RESIDENTIAL:

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 introduced the application to the Board. He noted that the applicant previously appeared before the Board for a use variance for commercial office use and site plan approval. He stated that under the current plan, the applicant has withdrawn the request for medical office use and is now only requesting to use 9,000 sq. ft. of the 15,000 sq. ft. building for a health club/gym use.

Mr. Trembulak introduced Kevin Costello of Erie Street Partners, LLC to testify.

Mr. Costello stated that the proposed use of the 9,000 sq. ft. would be for Ninja Warrior training. He stated that there would be no changes to the previous site plan approved by the Board.

Mr. Costello introduced Exhibit A-1, a PowerPoint presentation reviewing the proposed use for the Board. Mr. Costello reviewed the operation for the Board, which includes obstacle courses and other equipment for use by children, teens and adults. He noted that there are other existing locations in New Jersey.

Mr. Costello reviewed the proposed hours of operation of the use at the subject property. He stated that the facility would operate 7 days a week. He stated on the weekdays, Monday through Friday, the facility would be open from 7am to 10pm with varied programming for adults and children, as well as open gym periods. On weekend, Mr. Costello stated the facility would be open from 8am to 10pm with open gym sessions and group rentals available; i.e. for birthday parties.

Mr. Costello also noted that during the summer months, additional children's programming in the form of camps is offered.

Mr. Costello stated that at max operation there would be 6 staff members (coaches) and 40 participants. He stated participants usually spend one hour at the facility.

Mr. Costello stated that the remaining 6,000 sq. ft. would remain as previously approved office use.

No questions from the public were offered.

Questions from the Board were then accepted.

Mr. Simon asked if all activity would be indoors at the site. Mr. Costello replied yes.

Mr. Reynolds asked about peak traffic and parking demand at the other existing facility locations. He noted that there may be one parent dropping off many kids. Mr. Costello stated that based on other facilities, it is estimated that parking demand is 0.75 spaces per participant. He noted that the parking expert would provide additional testimony.

Mr. Moore asked if the facility would host any large competitions or events. Mr. Costello stated that this facility would not be large enough to host such events.

Mr. Moore asked about safety and security of participants. Mr. Costello stated that there is lots of padding and that staffing and training of staff provides additional safety.

Ms. Baggs asked if there would be music playing at the facility and if there were windows in the space. Mr. Costello stated that there is limited music played when the facility is in use.

Ms. Baggs asked about access to the building in the event of an emergency. She noted that the street is congested. Mr. Costello noted that the previous application made the parking area a one-way with entry from Forest and an exit to Erie Street, improving circulation.

Ms. Harris asked if there would be any additional signage or lighting for the proposed use. Mr. Costello replied no, noting that variances for signs were under the prior site plan approval.

Mr. McCullough asked how noise would be mitigated from the facility. Mr. Costello stated that the building is constructed of concrete block and will have new windows installed. He stated that there should not be any issue with noise.

Mr. McCullough asked if there would be any expansion of the building. Mr. Costello stated no and noted that the proposed use would be complementary with the office use as peak hours for the facility would be weekdays from 4pm to 8pm, with the office day concluding typically at 5pm.

Ms. Baggs asked if other existing locations were located in residential neighborhoods. Mr. Costello stated that some do have residential uses nearby.

Ms. Baggs asked if any share a building with office space. Mr. Costello replied no.

Mr. Fleischer stated that the previous application was for office use in the residential zone. He stated that the proposed office use would be normal office hours, on weekdays. He stated that the proposed application here would now operate 7 days a week from 7am to 10pm, a large increase in intensity of use. He stated that the property is in a residential zone and that no justification has been presented by the applicant.

Mr. Moore asked if alcohol would be served at the facility. Mr. Costello replied no.

Mr. Reynolds asked if additional methods to attenuate the sound had been reviewed. Mr. Costello replied no and noted that the building is constructed of concrete block.

Mr. Trembulak then introduced Corey Chase, traffic expert for the applicant.

Mr. Chase reviewed the trip generation and parking demand that would be created by the use based on analysis. He stated that at peak operation, 40 people would be using the facility. He stated that this would generate 53 vehicle trips per hour. Mr. Chase noted that the office use would generate 34 vehicle trips per hour. He noted that for the proposed use it is estimated that the parking demand will be 0.75 spaces per participant; so, at peak times when 40 people are using the facility, parking demand would be 30 spaces. He stated that peak demand would be between 5:15pm and 7:15pm.

Questions from the Board were then accepted.

Mr. Fleischer stated that the parking is not clear. He stated that the number of on-site parking spaces may not be adequate given that the times of use are not completely complementary.

Ms. Harris asked about parking for parties or group events. Mr. Chase stated that the parking ration used to calculate demand is the same for events, as it is based on number of users of the facility.

Ms. Baggs asked about the difference in trip generation for the proposed use versus the previous office use. She asked if the change was significant to require another traffic study. Mr. Chase stated that the change was not significant enough to warrant a traffic study.

Mr. McCullough asked about the office use and if the hours of use ran later. He noted that this would conflict with peak demand period of the proposed Ninja Warrior studio. Mr. Chase stated that there could be a restriction on the hours of office use to limit potential conflicts.

Mr. Costello stated that the hours of operation for the proposed Ninja Warrior studio could be scaled back to 9am to 9pm, Monday through Friday and 8am to 8pm, Saturday and Sunday.

Mr. Caulfield asked how the proposed use would be advertised. Mr. Costello stated that other locations hold open houses, camp sessions and expos to promote the facility.

Mr. Fleischer asked about the trip generation. He noted that the applicant has stated that afternoon and evenings will be busiest for the Ninja Warrior studio. He stated that it seems the office use will only have two small busy periods, when employees arrive and depart from the office. He stated based on the testimony, the trip generation would be hourly for the proposed Ninja Warrior studio. He noted the prior approval was granted because of the limited traffic impact of the office use.

Comments were then offered by the public on the application.

Namita Tolia, Head of School of the Montclair Cooperative School, addressed the Board regarding the application. Ms. Tolia stated that the proposed use would complement the school and provide a space for children. She stated that there would not be a significant impact to traffic and that the parking could be accommodated. She also stated that the use would provide a recreation opportunity for the school.

Final comments from the Board were then accepted.

Ms. Baggs stated that it would be difficult to support the use variance as the applicant has not provided enough proofs regarding the special reasons for granting the variance. She stated that the proposed use is not a permitted nor conditional use. She stated that while traffic and parking information was presented, she stated it was difficult to reconcile with the rationale provided under the previous application for office use. She stated that the proposed hours of use for the office space were consistent with the former auto use. She stated that the proposed use would be much more active on the site and would be a burden to the neighborhood.

Mr. Reynolds stated that he was concerned about the traffic in the area. He stated that the prior approval was based on a non-intensive use at the site. He stated that Forest

Street can be difficult to navigate. Mr. Reynolds stated that he has no issue with the proposed use and noted that there are not many close neighbors. He stated that he would be in favor.

Mr. Allen stated that he was familiar with the area. He noted there was previously a pizzeria in the area and other non-residential uses. He stated that the adjacent property is not residential. He stated he would be in favor.

Mr. McCullough stated concern about both internal and external noise from the proposed use. He stated that this location is in a residential area. He stated that the neighbors had supported the office use and that the amount of traffic for the office use was not detrimental to the area. He stated that it was curious that no neighbors had come forward regarding the proposed intense use and the traffic impact. He stated that he could support the application.

Mr. Caulfield stated that he was not sure the proposed use would fit on the site. He stated that he had concerns regarding traffic, but understands the community need for recreation space. He stated that he would not be in favor.

Ms. Harris stated that she would have a hard time supporting the application in a residential area. She stated that the demand during off-hours when residents need parking would present a conflict.

Mr. Simon stated that he was not in favor. He stated that the location is not ideal. He also noted that the studies presented were not completed with the building occupied. He also noted that the traffic information based on other locations of the facility may not be similar to the situation here in Montclair.

Mr. Moore stated that the programming is good for the Township, but not compatible with the neighborhood. He stated that the area cannot handle the volume of use from the proposed facility. He stated that the site is not well suited for the use.

Mr. Fleischer stated that he would not be in favor. He stated that the proposed application represents an intensification of the use including weekend use. He noted this is different from the previous office use approval by the Board, which was limited to weekdays. He stated that the use is not appropriate for the site and would operate at too many hours of the day. He stated he would not be in favor.

A motion was made by Ms. Baggs to deny the application, seconded by Mr. Moore. The application was denied with Mr. Fleischer, Ms. Baggs, Mr. Moore, Mr. McCullough and Mr. Simon voting in favor of the motion. Mr. Allen and Mr. Reynolds voted against the motion.

ADJOURNMENT

A motion to adjourn was offered by Ms. Reynolds, seconded by Mr. Moore. The meeting was adjourned at 11:35pm.

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