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## MINUTES OF THE BOARD OF ADJUSTMENT August 15, 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, Ms. Harris, Mr. Moore, Mr. Caulfield, Mr. Sullivan and Mr. Petto. Mr. McCullough, Mr. Reynolds, Mr. Allen and Mr. Simon were excused.

### **APPROVAL OF MINUTES:**

#### **July 18, 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. Harris to approve the minutes as amended. The minutes were approved unanimously.

### **RESOLUTIONS:**

**Resolution for [App. 2560: 11 Montclair Avenue. Steven Lerner.](#) Bulk variance of accessory structure side yard setback in the R-2 Two-Family Zone District.**

Mr. Harrison introduced the resolution to the Board. A motion to approve the resolution as submitted was offered by Mr. Fleischer, seconded by Ms. Harris. The resolution was approved unanimously.

**Resolution for [App. 2561: 111-113 Grove Street & 63 Walnut Street. Green Partners, LLC & Walnut Grove Partners, LLC.](#) Major site plan application following use variance approval for commercial development in N-C, C-2 and R-2 zone districts.**

Mr. Harrison recused himself from consideration of the resolution.

Mr. Fleischer introduced the resolution to the Board. A motion to approve the resolution as submitted was offered by Mr. Moore, seconded by Ms. Harris. The resolution was approved unanimously. Mr. Harrison abstained.

### **OLD BUSINESS – RESIDENTIAL:**

**[App. 2559: 35 Afterglow Way. Zachary & Lauren Zeltzer.](#) Bulk variance of maximum permitted building width in R-1 One-Family Zone District.**

Mr. Harrison returned to the meeting.

Mr. Petto announced that the applicant had provided a correspondence requesting that the hearing be carried to the September 12, 2018 meeting of the Board. The applicant indicated that additional time was needed to respond to the Board's comments at the July meeting.

The Board agreed to carry the application to the September 12, 2018 meeting with no further notice.

**NEW BUSINESS – RESIDENTIAL:**

**[App. 2551: 167 Highland Avenue. Neena & Dinesh Shah.](#)** *Bulk variance of the required front yard setback in the R-O Mountainside Zone District.*

Mr. Harrison introduced the application to the Board.

Present for the application were the applicants, Neena and Dinesh Shah as well as the applicant's architect, John Reimnitz.

Mr. Reimnitz reviewed the plans of the proposed additions to the dwelling for the Board. He noted that the existing dwelling on the subject property does not conform to the required front yard setback. He also noted that all proposed additions to the dwelling would be in line with the existing front yard setback with no further projection into the front yard. He also noted that there is a requested side yard setback variance for an existing non-conforming side yard.

Questions from the Board were then accepted.

Ms. Harris clarified that none of the proposed additions would project further into the existing setbacks of the dwelling. Mr. Reimnitz replied that was correct.

Mr. Caulfield noted that the current dwelling is brick. He asked about the proposed finish of the framed greenhouse, which is to be replaced with an addition. Mr. Reimnitz stated it would be finished in hardi-plank.

Mr. Fleischer asked if a bathroom would be addition. Mr. Reimnitz replied yes, noting the location of a proposed powder room on the first floor. He also noted that a space for an elevator would be added.

Mr. Fleischer asked about the existing one-story addition at the rear of the building on the southern side. Mr. Reimnitz stated that this would be removed.

Mr. Moore asked about the swimming pool and tennis court. Mr. Reimnitz noted that these elements are in fact located on the adjacent lot.

Mr. Fleischer noted that the adjacent dwelling on the property with the swimming pool and tennis court is set farther back than others. He asked what the required front yard setback would be for the subject property if this dwelling was not considered in the calculation. Mr. Reimnitz stated that it would be a required 46-foot front yard setback without this property.

Mr. Harrison referred to the memo provided by Board Engineer Tom Watkinson. Mr. Reimnitz stated that the applicant will comply with all comments by Mr. Watkinson and will review plans to ensure compliance.

Mr. Dinesh Shah then addressed the Board. He noted that he and his wife will be relocating to Montclair and are looking forward to creating a home in the Township.

Questions and comments from the public were then accepted.

Mr. Craig Dubitski, 154 Highland Avenue, addressed the Board. He stated that he is in favor of the proposed upgrades to the subject property. He stated that the architect has developed a very good plan and that they are looking forward to new neighbors on the block.

Final comments from the Board were then accepted.

Mr. Caulfield stated that he did not have any concerns about the side yard setback but had some reservations about the front yard setback variance. He stated that he would like to hear comments from the other Board members.

Ms. Harris stated that she would be in favor. She stated that proposed additions at the front of the dwelling would align with the existing house and would be no further impact on the front yard setback.

Mr. Moore stated that the additions will enhance the dwelling, but also noted appreciation for the current style of the dwelling. He agreed that the conditions of the Board Engineer should be addressed by the applicant. He stated that the proposed rear deck addition should comply with the required side yard setback.

Mr. Fleischer stated that he would be in favor. He stated that the existing structure on the lot has both front and side yard setback deficiencies and noted that there would be no further impact of these setbacks by the proposed plan.

Mr. Harrison stated that he would be in favor. He noted that the Board has traditionally permitted a second floor to be constructed over an existing first floor.

Mr. Harrison reviewed the proposed conditions of approval:

1. The variance relief for the side yard setback is applicable only to the northwest corner of the dwelling. The proposed rear addition to the building shall comply to the required side yard setback.
2. The applicant is to conform to items 1, 3 and 4 listed in the memorandum prepared by Board Engineer Tom Watkinson, dated August 13, 2018.
3. The grading/draining and engineering site plan are to be reconciled with the architectural plans and be submitted to Board Engineer Tom Watkinson for satisfaction.

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

**[App. 2568: 31 Stephen Street. Mary Clark & Alexis Charnee.](#)** *Bulk variance of the required accessory structure setback in the R-1 One-Family Zone District.*

Mr. Harrison introduced the application to the Board.

Present for the application were the applicants, Mary Clark and Alexis Charnee.

Ms. Clark and Ms. Charnee reviewed the proposed new garage on the subject property. They noted that the current garage is in disrepair and would be removed. The current garage has a one-foot side yard setback. They propose to construct a new garage on the property with a 3-foot side yard setback and a 6-foot rear yard setback.

Questions from the Board were then accepted.

Ms. Harris asked why the required 6-foot side yard setback could not be met. Ms. Charnee stated that they hoped to preserve as much of the rear yard as possible.

Mr. Caulfield asked if the proposed garage was larger than the previous garage. Ms. Clark replied yes and noted that the previous garage was undersized. She also noted that there would be a small storage area at the rear.

Mr. Fleischer asked if the concrete slab of the previous garage would need to be removed and replaced. Ms. Charnee replied yes and noted that the current slab is broken.

The applicants introduced Exhibit A-1, a series of photographs of the existing garage and rear yard of the property.

No questions nor comments from the public were offered.

Final comments from the Board were then accepted.

Ms. Harris stated that the proposed location, with the expanded side yard setback, is an improvement over the current condition. She stated that the side yard setback could be increased by one or two feet over the proposed three feet.

Mr. Moore stated that he would be in favor of the application as it would enhance the property.

Mr. Fleischer stated that he would be in favor. He noted that the width of the garage could be reduced to 19 feet from 20 feet and the side yard setback increased from 3 feet to 4 feet. He noted that this would preserve the yard and increase the side yard setback.

Mr. Caulfield stated that he would be in favor. He noted that the increased setback was a benefit.

Mr. Harrison stated that he would be in favor. He stated that the applicant has attempted to shift the garage further from the property line to better meet the side yard setback. He also noted that any further shift of the garage would require adjustments to the driveway on the property. He stated that there would be no detriment to the zone plan.

A motion was made by Ms. Harris to approve the application with a 4-foot side yard setback, seconded by Mr. Moore. The application was approved unanimously.

**[App. 2576: 26 Walnut Street. Carmel Loughman.](#)** *Bulk variance of the required accessory structure setback in the R-2 Two-Family Zone District.*

Mr. Harrison introduced the application to the Board.

Present for the application was the applicant Carmel Loughman.

Ms. Loughman presented a digital version of her submitted documents and plans on the projector for the Board to review.

Ms. Loughman reviewed the plan to locate a new shed on the subject property to replace the previous shed. She noted that the previous shed was located on the shared property line between 26 & 28 Walnut Street.

Ms. Loughman stated that the new 8-foot by 12-foot shed would be located in a small notched area of the property with a 0.4-foot side and rear yard setback.

Ms. Loughman noted that the dwelling is a 3-family, as approved by the Board, and that parking is accommodated in the driveway. She noted that the driveway has since been modified from the submitted survey to shift a portion of the retaining wall.

Following Ms. Loughman's presentation, questions from the Board were then accepted.

Mr. Fleischer asked how large the previous shed was. Ms. Loughman stated it was 10 feet by 7.5 feet.

Mr. Fleischer asked if the proposed shed could be located along the rear of the dwelling or elsewhere on the lot. Ms. Loughman stated that there are windows along the rear of the dwelling and that snow is also piled in this area during the winter months.

Mr. Fleischer stated that the shed could be rotated so that the shorter side is nearer the rear property line with a 3-foot rear yard setback. He noted that this location would have minimal impact on the driveway and parking for the dwelling.

Ms. Harris noted the desired shed location of the applicant in the small notched area. She asked if the applicant had considered a smaller shed for the space, which would have larger setbacks than the proposed 0.4 feet. Ms. Loughman stated that the 8-foot by 12-foot shed is an appropriate size and practical for her needs. She stated that a smaller shed would not be as functional.

Final comments from the Board were then accepted.

Mr. Moore stated that he would be in favor of the applicant. He stated that he recognizes the impact to the on-site parking as a result of a fully conforming shed location. He stated that the proposed location is good and accommodates snow storage during the winter. He stated that he wanted to hear more from his colleagues.

Mr. Fleischer stated that he would not be in favor of the side yard variance request but would be in favor of the rear yard variance request. He stated that the proposed shed cannot fit in the small notch on the property. He stated that he could not justify granting a variance to permit a 5-inch setback. He stated that he would be in favor of granting a 3-foot rear yard setback variance. He stated that the applicant could orient the shed as they see fit to maximize the parking area in the driveway. He stated that there is sufficient space for the shed and parking.

Mr. Caulfield stated that while conducting a site inspection he was surprised to see that the driveway has been expanded from the submitted survey. He noted that the small bumped area has been removed making the driveway larger. He stated that given the larger parking area, the shed could be accommodated with a 3-foot year yard setback and the shed could be rotated to best fit on the site.

Ms. Harris stated that locating the shed in the small notch area would be too difficult. She stated that she would be in favor of a 3-foot side and rear yard setback variance.

Mr. Harrison stated that he would not be in favor of the application as filed. He stated that the Board has never granted a variance of this size. He stated that a setback of less than one foot on all three sides of the proposed shed would create an undesirable and inaccessible condition. He stated that the Board has consistently been requiring a 3-foot clearance around structures for general maintenance. He stated that he would have no problem granting a variance to permit a 3-foot side and rear yard setback. He also noted that providing such a setback would also allow for space to conduct snow removal from the driveway. He also noted that there would still be sufficient room in the driveway to park 6 vehicles.

A motion was made by Mr. Fleischer to approve the application with a 3-foot side yard and 3-foot rear yard setback requirement, seconded by Mr. Caulfield. The motion was approved unanimously.

**NEW BUSINESS – NON-RESIDENTIAL:**

[App. 2564: 441 Bloomfield Avenue. 441 Bloomfield Avenue Montclair LLC.](#) *Use variance to locate general, business and professional office on the first floor in the C-1: Central Business Zone District.*

Mr. Harrison introduced the application to the Board.

Present on behalf of the applicant was attorney Dean Donatelli.

Mr. Sullivan advised Mr. Donatelli that the Board only has 5 eligible members in attendance this evening and noted that the application is seeking a “d” variance. Mr. Donatelli stated that the applicant would present some testimony this evening and request that the matter be carried to the September 12, 2018 Board meeting to conclude testimony when additional members are present.

Mr. Donatelli summarized the application for the Board. He noted that the applicant proposes to use the entire building, including the first-floor space, for office use by Sovos Brands. Mr. Donatelli stated that the applicant currently has already obtained building permits to convert the second and basement levels of the building to office space.

Mr. Donatelli introduced Chris Manos, project designer, to review the proposed use of the building.

Mr. Manos reviewed the subject building. He noted that the former bank building is not conducive to storefront retail as the space is not configured with storefronts.

Mr. Manos introduced Exhibit A-1, a graphic depicting the height of the windows from the exterior above grade. He noted that all the windows are significantly above grade, with no visibility into the building.

Mr. Fleischer asked about access to the second floor under the currently filed building permits. Mr. Manos noted that there is an entry lobby on the proposed plans with access to the elevator and stairwell to the second floor.

Mr. Fleischer asked about the second entry to Bloomfield Avenue on the southern façade of the building. Mr. Manos stated that this would not be a primary entry to the building and noted that the main entry would be at the intersection of Glenridge Avenue and Bloomfield Avenue.

Mr. Manos submitted Exhibits A-2 and A-3, additional signage and window details for review by the Board. He noted that the exhibits were prepared following review of the application by the HPC.

Mr. Fleischer asked if the first window on the Glenridge Avenue façade is smaller than the others. Mr. Manos replied yes.

Mr. Manos explained that the building would be open from 9am to 5pm and would house 17 employees. He stated that the applicant has obtained a parking agreement with 68 Church Street to provide 10-12 parking spaces. He noted that other employees will take mass transit.

Questions from members of the Board were then accepted.

Mr. Fleischer asked about access to the building after 5pm and if employees would exit through the main door or the side door to Bloomfield Avenue. Mr. Manos stated that the building would have access through a key fob system.

Mr. Manos then submitted Exhibit A-4 an older photo of the building. He noted that the deposit box on the side of the building along Bloomfield Avenue is not original to the building.

Mr. Harrison referred to the HPC memo for the application and asked if the applicant had prepared a compliant size sign for the building.

Mr. Manos introduced Exhibit A-5, a rendering depicting the compliant sign size. He noted that the former bank use had a total of 5 signs on the building; 4 plaque signs and the wall mounted business sign. He stated that the new tenant proposes 2 plaque signs in a larger size. He also noted that the existing planters in front of the building partially obstruct the sign area.

Mr. Harrison asked if there would be visitors to the office building. Mr. Manos stated that only a few visitors from the main headquarters location in California and local clients would visit the building.

Mr. Harrison asked about the lower level windows on the Glenridge Avenue façade. He noted that 4 are windowed and asked about the remaining openings. Mr. Manos stated that they are mechanical intake vents for the building. He also noted that there is other equipment mounted on the roof, which is not visible.

Ms. Harris asked why the 2 plaque signs on Glenridge Avenue and Bloomfield Avenue would be removed. Mr. Manos stated that the additional signage is not necessary.

Mr. Harrison announced that the application would be carried to the September 12, 2018 meeting of the Board with no further notice.

**ADJOURNMENT**

A motion to adjourn was offered by Ms. Harris, seconded by Mr. Caulfield. The meeting was adjourned at 9:45pm.

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