



Graham Petto, P.P., AICP
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MINUTES OF THE BOARD OF ADJUSTMENT October 17, 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. McCullough, Mr. Reynolds (arrived at 7:45pm), Mr. Moore, Mr. Allen, Mr. Simon, Mr. Caulfield, Mr. Sullivan and Mr. Petto. Mr. Fleischer was excused.

APPROVAL OF MINUTES:

September 12, 2018 Minutes

Chair Harrison introduced the minutes for review by the Board. A motion was made by Mr. Simon, seconded by Mr. Allen to approve the minutes. The minutes were approved unanimously with Mr. Moore abstaining.

RESOLUTIONS:

Resolution for [App. 2570: 4 Inwood Terrace. Cheryl Oberdorf.](#) *Bulk variance to locate off-street parking in the front yard in the R-1: One-Family Zone District*

Mr. Harrison introduced the resolution to the Board. A minor edit was offered. A motion to approve the resolution as amended was offered by Mr. McCullough, seconded by Ms. Harris. The motion was approved unanimously with Mr. Moore abstaining.

Resolution for [App. 2571: 30 Porter Place. Jeh Johnson & Susan DiMarco.](#) *Bulk variance of the maximum permitted fence height in front of the extreme rear corners of the principal building in the R-1: One-Family Zone District*

Mr. Harrison introduced the resolution to the Board. A minor edit was offered. A motion to approve the resolution as amended was offered by Ms. Harris, seconded by Mr. Simon. The motion was approved unanimously with Mr. Moore abstaining.

Resolution for [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 resolution to the Board. A minor edit was offered. A motion to approve the resolution as amended was offered by Ms. Harris, seconded by Mr. Simon. The motion was approved unanimously with Mr. Moore abstaining.

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.*

Chair Harrison introduced the application to the Board. Present for the application was the applicant, Zachary Zeltzer, architect Edmundo Lopez and Professional Planner/Engineer Alexandra Handel.

Ms. Handel was sworn in and offered testimony on the application. Ms. Handel introduced two exhibits for review by the Board, one a colored boundary and topographic survey and the second a grading plot plan of the site.

Ms. Handel reviewed the plans in detail for the Board. She noted that the property has a significant grade change from street front descending to the rear property line 45 feet in elevation. She stated that the enclosed pool addition as proposed would be along the southern façade of the residence and connected at grade with the basement level.

Ms. Handel noted that the selected location by the applicant was better for safety of the pool facility to be located near the dwelling. A location further into the rear yard would reduce a small terraced play area and be further from the dwelling.

Ms. Handel reviewed the comments provided by Board Engineer Tom Watkinson. She stated that the applicant would comply with all conditions and noted that Mr. Watkinson would observe the installation of piping noted under Item 2 to ensure it satisfied his comment.

Ms. Handel noted that the proposed addition would result in a 78% building width for the dwelling where the requirement is 65% building width of the lot. She stated that the steep slope of the property limited the potential for an addition to the rear. She also noted that the proposed location of the addition would protect the visual appeal of the rear of the dwelling.

Questions from the Board were then accepted.

Mr. Simon asked about management of storm water runoff. Ms. Handel noted that the applicant would comply with the requirements to manage storm water as noted by Mr. Watkinson.

Mr. Moore asked if there was a buffer to the rear of the property shielding view from the Montclair Kimberley Academy to the rear of the home. Ms. Handel replied yes noting there is landscaping along the property line.

Mr. Moore asked about the proposed fence between the proposed addition and the driveway at the front of the dwelling. Ms. Handel noted that the fence would be located to protect the edge of the retaining wall in this area for safety.

Mr. Harrison referred to Mr. Watkinson's memo and asked if the applicant would comply with all recommendations. Ms. Handel replied yes.

Mr. Harrison referred to the HPC memo and asked if the applicant would comply with all recommendations. Ms. Handel replied yes.

Mr. Harrison asked if the garage addition to the northern side of the dwelling was attached to the dwelling. Mr. Lopez replied yes and noted that there is a covered walkway connecting the garage to the dwelling.

Mr. Harrison asked about the setback from the rear corner of the garage and asked if it conformed to the required side yard setback. Ms. Handel replied no, noting that the required setback is 6 feet and the setback is 5.82 feet. Mr. Harrison noted that this would require variance relief.

Mr. Harrison asked for a review of the building width. Ms. Handel noted that the original dwelling was 83.36 feet in width. The garage addition to the dwelling resulted in a total of 116.74 feet of width. The proposed pool addition would expand the width to 155.47 feet total for the dwelling. Finally, she noted that the width of the lot at the front of the dwelling is 199.78 feet, meaning the dwelling width is 77.82% of the lot width.

Mr. Harrison asked what the purpose of seeking the variance for building width would be. Ms. Handel stated that the addition as presented would not be visible from the front nor rear of the dwelling and would preserve the streetscape appearance.

Mr. Caulfield asked about the dimensions of the addition and for a review of the location of the fence to be constructed along the retaining wall at the street side of the addition. Ms. Handel reviewed.

Ms. Harris asked if other locations on the lot could be used for the proposed pool structure. Ms. Handel noted the terraced flat area to the rear of the dwelling. She stated that the area is currently a play area for the children and this would be lost if the pool were constructed in this location.

Questions and comments from members of the public were then accepted.

Lloyd Zbar, 33 Afterglow Way, asked about the setback of the as constructed garage, which is setback only 5.82 feet from his property. Mr. Harrison noted that the setback was not compliant and would require variance relief. Mr. Harrison asked if Mr. Zbar would object to the variance. Mr. Zbar replied no.

Final comments from the Board were then accepted.

Mr. Caulfield stated that he would not be in support of the application and noted that other locations on the lot exist to locate the pool structure.

Ms. Harris stated that she understood the selection of the proposed location as it would not be visible but did not understand why the remaining areas of the rear yard could not be used for the pool structure. She stated that she would not be in favor.

Mr. Simon wanted to hear additional comments from other Board members.

Mr. Moore stated that he agreed with previous comments. He stated that the applicant has prepared good updates since the previous meeting but noted that the lot is large and that other areas exist to site the pool. He stated that the applicant could select another location.

Mr. Allen stated that he agreed with previous comments. He stated that the applicant did not present a justification to deviate from the required building width.

Mr. McCullough agreed with previous comments. He stated that while the design is creative he struggled with the selected location. He stated that the selected location was not best for the site.

Mr. Simon stated he agreed with the other Board member comments. He stated that there has been considerable effort by the applicant to force the pool into the selected location. He said more consideration to alternative locations should have been done.

Mr. Harrison stated that he would not be in favor of the application. He stated that other areas on the property do exist to locate the pool. He stated that the dwelling is already large on the site and the recent garage addition contributes to the building width issue. He stated that approval of the variance would be a substantial impairment to the zone plan.

Mr. Harrison stated that regarding the side yard setback variance required by the applicant, the deviation is very small, just 0.18 feet or 2 inches. He stated that the variance could be granted.

A motion to deny the variance of the building width and approve the variance of the side yard setback was made by Mr. Simon, seconded by Mr. Caulfield.

The motion was approved unanimously.

NEW BUSINESS – RESIDENTIAL:

[App. 2563: 430 Upper Mountain Avenue. John Giorgi.](#) *Bulk variance of required front yard setback of principal structures in the R-1 One-Family Zone District.*

Mr. Harrison introduced the application to the Board. Present for the application was the applicant John Giorgi and architect James Esposito.

Mr. Giorgi reviewed the application for the Board. He noted that he proposed to construct a new addition to the northern side of the dwelling and align the proposed addition with the existing dwelling. He noted that the ordinance requires a front yard setback of the average front yard setback of the adjacent properties.

Mr. Giorgi noted that each of the two adjacent properties front onto other streets from the subject property. He stated that the dwelling to the south has a front yard setback from Upper Mountain Avenue of 19 feet and that the adjacent dwelling to the north has a front yard setback of 76 feet from Upper Mountain Avenue. Thus, Mr. Giorgi noted the required front yard setback for the property is 47.5 feet, which is greater than the existing setback of the existing dwelling on the subject property.

Questions from members of the Board were then accepted.

Mr. Caulfield asked if the addition would align with the existing dwelling. Mr. Esposito noted that there is a slight forward shift in alignment towards the street to preserve connectivity in existing window openings between the existing house and the proposed addition.

Mr. Harrison asked for a review of the plans and the proposed addition. Mr. Giorgi and Mr. Esposito reviewed the plans in detail.

Mr. McCullough noted that there are two first floor bathrooms proposed. Mr. Giorgi stated that the rear bathroom would be for entry from the rear yard to clean up before entering the dwelling in addition to the powder room for guests.

Mr. McCullough also noted that the rationale given by the applicant for the addition is to modernize the dwelling. He also noted that the properties across Upper Mountain Avenue have small front yards as they are bound by the railroad tracks to the rear.

Mr. Reynolds asked if the subject property is the only dwelling fronting Upper Mountain Avenue on this block of three homes. Mr. Giorgi replied yes, noting that the adjacent dwellings each front on different streets.

Mr. Reynolds asked if all other elements of the plan would comply with requirements of the ordinance, besides the front yard setback. Mr. Giorgi replied yes.

Mr. McCullough asked about the proposed size of the dwelling in relation to others in the area. Mr. Giorgi stated that the dwelling would be about 3,500 sq. ft. in size, which is like others in the area.

Mr. Harrison asked about the existing wood fence at the property that aligns with the front wall across the driveway and if it would be removed. Mr. Giorgi replied yes.

Mr. Harrison asked if the large tree in the front yard would remain. Mr. Giorgi replied yes.

Questions and comments from the public were then accepted.

Ken Dreifach, 4 Windsor Place, stated that should the Board approve the application, he would request that an accommodation be made for weekend construction. He stated that the applicant has been disruptive managing the property. He also noted that the applicant has delayed abatement of code enforcement violations.

Mr. Harrison noted that hours of construction are not the purview of the Board. Mr. Petto noted that they are contained in Montclair Code § 217-7.

Mr. Giorgi stated that he would agree to a condition to limit exterior work at the site on Sundays.

Mr. Simon asked a follow-up question of Mr. Dreifach about the design of the dwelling. Mr. Dreifach stated that he was in favor of the variance relief sought by the applicant and was not objecting.

Mr. McCullough asked about the sq. ft. of Mr. Dreifach's dwelling. He stated his home is about 2,400 sq. ft. in size, excluding the basement.

Nina Sloan, 8 Windsor Place, stated that she supports Mr. Dreifach's comments. She stated that neighbors are worried about the impact of construction and respect of the neighbors. She stated that the proposed dwelling is too large as most homes are about 2,800 sq. ft. at the largest in the neighborhood.

Paul Roder, 5 Windsor Place, stated that his dwelling is about 2,400 sq. ft. in size.

Mr. Giorgi stated that there are larger dwellings along Upper Mountain Avenue and that the proposed size is consistent.

Final comments from the Board were then accepted.

Ms. Harris stated that she would be in favor of the front yard setback variance. She stated that she had no concern as the setback would align with the existing dwelling. She stated that the applicant should be a good neighbor.

Mr. Simon stated that the front yard setback should align with the existing dwelling. He also noted concern about the size of the resulting dwelling in the applicant's plan.

Mr. Moore stated agreement regarding the front yard setback. He also noted concern about the size and scale of the addition.

Mr. Reynolds stated he would be in favor as this is a hardship. He stated that the neighboring dwelling to the north is set very far back on the lot from Upper Mountain Avenue. He stated that he agreed the addition is large.

Mr. Allen stated that he would be in favor. He stated that the applicant should cooperate with the neighbors.

Mr. McCullough stated that the current condition of the dwelling is not good, and it needs rehabilitation. He stated that he is in favor of the setback variance request. He noted that the proposed addition is extensive compared to other dwellings. He stated that he would not be in favor overall due to the size of the extension.

Mr. Caulfield stated he would be in favor.

Mr. Harrison stated that usually additions are smaller in relation to the existing dwelling. He stated that the variance of the front yard setback should allow the new addition to align with the main wall of the existing dwelling. He stated that approval of the variance would not be a detriment to the public good nor a substantial impairment of the zone plan.

Mr. Harrison noted two conditions of approval:

1. The addition is to align with the existing main front wall of the dwelling to the rear of the existing front porch of the dwelling.
2. There shall be no exterior construction work at the property on Sundays.

A motion was made by Mr. Allen seconded by Mr. Reynolds to approve the application with the conditions as stated. The motion was approved unanimously with Mr. McCullough abstaining.

[App. 2579: 202 Watchung Avenue. 202 Watchung Avenue, LLC.](#) *Bulk variance of rear yard setback of principal structures in the R-1 One-Family Zone District.*

Mr. Harrison introduced the application to the Board. Present for the applicant was attorney Cal Trevenen and Mr. Barbaros Sarici of 202 Watchung Avenue, LLC.

Mr. Trevenen summarized the application for the Board. He noted that Mr. Sarici of 202 Watchung Avenue, LLC, is proposing to rehabilitate the subject property.

Mr. Sarici testified that the property was purchased in December 2017. He stated that since purchasing, the attached 2 car garage addition has been demolished. He reviewed the plans for the dwelling in detail, noting a new deck is to be attached to the rear of the dwelling in addition to a new detached garage.

Mr. Sarici submitted Exhibit A-1 a series of 2 renderings of the proposed dwelling.

Questions from members of the Board were then accepted.

Mr. Caulfield asked about the size of the rear yard. Mr. Sarici noted that the rear yard is 1,189 sq. ft. in size.

Ms. Harris asked if the proposed garage was a two-car garage. Mr. Sarici stated that a 2-car garage cannot fit in the rear yard. Mr. Petto noted that the ordinance requires that accessory structures not occupy more than 25% of the rear yard.

Mr. Allen asked if the driveway would be accessed from the curb cut furthest from the intersection of Watchung Avenue and Grove Street. Mr. Sarici replied yes and noted that the driveway was wide to provide a turnaround to exit onto Grove Street.

Mr. Harrison asked for clarification of the plan for the rear deck, noting its extension around the rear of the dwelling. Mr. Sarici noted that the deck extended to provide exit from both the kitchen and dining area to the deck.

Mr. Harrison noted concern about the driveway and the need to park two vehicles, one of which may extend into the front yard. He asked Mr. Sarici if there was sufficient space to park a vehicle between the proposed garage and the new deck. Mr. Sarici replied yes.

No questions nor comments from the public were provided.

Final comments from the Board were then accepted.

Mr. Simon stated that he appreciated the proposal and stated it would be a benefit to the neighborhood. He also stated that there would be no detriment.

Mr. Moore stated that he would be in favor.

Mr. Reynolds 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. Harrison stated that he would be in favor. He stated that the corner property is difficult given the two front yards along each street. He stated that the proposed front yard setback from the new deck is greater than that of the existing dwelling. He also noted that the rear yard setback deviation was very small. He stated that it would be an enhancement to the property.

Mr. Harrison recommended the following condition of approval.

1. The second curb cut along Grove Street, closer to Watchung Avenue is to be removed by the applicant as it will no longer be in use.

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

NEW BUSINESS – NON-RESIDENTIAL:

[App. 2578: 68 Forest Street. Heidi Daus Enterprises, LLC.](#) *Use variance for expansion of commercial use in the R-2 Two-Family Zone District.*

Mr. Harrison introduced the application to the Board. Present for the applicant was attorney Cal Trevenen and architect John Guadagnoli.

Mr. Trevenen introduced the application to the Board. He noted that the present office/warehouse use is for a jewelry designer. He stated that the proposed dormer addition would accommodate additional storage space for the use.

Mr. Guadagnoli reviewed the plans for the Board. He noted that the proposed dormer addition would be used for storage and that it would be about 850 sq. ft. in size, with a ceiling height of 7 feet. He stated that the dormer would have a total of 3 windows. Mr. Guadagnoli stated that the dormer is located between the existing truss supports for the building in the roof.

Mr. Guadagnoli stated that the application had been reviewed by the Historic Preservation Commission, which also recommended that the dormer be shifted forward away from the rear of the building to appear set into the roof line.

Questions from the Board were then accepted.

Mr. Caulfield asked if the roof is pitched. Mr. Guadagnoli replied yes.

Mr. Harrison asked for clarification of the submitted plans. Mr. Guadagnoli stated that the addition was limited in size at the rear corner of the building and could not be expanded due to the location of HVAC equipment in the attic.

Mr. Harrison asked about the parking for the building following the proposed addition. Mr. Guadagnoli attempted to quickly calculate the required parking and estimated that the demand may be about 18 spaces. Mr. Harrison asked how many spaces were on site currently. Mr. Guadagnoli stated that he did not know for certain.

Mr. Harrison asked that the applicant return with updated information on parking requirements for the use. Mr. Trevenen agreed to the request.

Questions from the public were then accepted.

Jennifer Reynolds, 66 Forest Street, stated that parking at the site, deliveries and trash removal are an issue for residents in the area. She stated that these should be considered by the Board because there is an impact to the residents.

Judith Murphy, 187 Inwood Avenue, stated that she has owned 79 North Fullerton Avenue, to the rear of the subject property for about 10 years. She stated that there is concern because the area is zoned for residential use and the proposed addition is expanding the non-residential use.

Mr. Harrison announced that the application would be continued to the November 7 meeting of the Board with no further notice.

[App. 2580: 451-455 Orange Road. Honor You Memorial Products.](#) *Use variance and site plan for manufacturing use in the R-1 One-Family Zone District.*

Mr. Harrison introduced the application to the Board. Present for the application was attorney Marjory Avant, Samuel Stewart of Honor You Memorial Products and architect John Guadagnoli.

Ms. Avant summarized the application for the Board. She noted that the applicant proposes to expand the existing business in the adjacent building to the subject property. Ms. Avant introduced Mr. Stewart to provide testimony.

Mr. Stewart stated that the existing printing business, which prepares prayer cards, is currently located in the adjacent building. He stated that the application here is to expand to the building on the subject property with new printing equipment. He stated that the business currently has 7 employees and does not anticipate any new hiring with the expansion as it is solely to accommodate larger equipment. Mr. Stewart stated that the business operates Monday through Friday from 8:30am to 6:00pm and on Saturdays from 9:00am to 1:00pm.

Mr. Stewart stated that the business largely works with funeral homes and communicates by email and fax. He did note that some families do visit the office to select prayer cards.

Mr. Guadagnoli reviewed the proposed architectural and site plans. He noted that the applicant proposes to construct a second-floor addition to the existing building. He stated that the proposed addition would be a mezzanine with half of the second floor open to the first floor below. He noted that the parking area would be improved to accommodate the required three parking spaces on-site.

Questions from the Board were then accepted.

Mr. Simon asked how long the subject building, previously a dry cleaner, had been vacant. Mr. Stewart stated since January.

Mr. Moore asked if the applicant is the owner of the adjacent building at 447 Orange Road. Mr. Stewart replied yes.

Ms. Harris asked if there would be a connection between the two buildings. Mr. Stewart replied no. Ms. Harris asked if there would be a front entrance to the building from Orange Road. Mr. Stewart replied no. He also noted that no signage is needed.

Mr. Harrison asked about parking for the existing building containing the printing business. Mr. Stewart stated that there is on-street parking available in the area. He also noted that the expansion would not require any new employees.

Mr. Harrison reviewed Mr. Watkinson's memo, the Board Engineer. The applicant agreed to comply with conditions 3, 4 and 6 from Mr. Watkinson's memo. Mr. Harrison stated that condition 5 was no longer applicable and that condition 2 could be addressed by having the leaders drain to the rear yard.

Mr. Caulfield asked about any potential impacts of a flood zone in the area. Mr. Guadagnoli stated that this was not raised by the engineer.

Final comments from the public were then accepted.

JC Aviles, 451 ½ Orange Road stated that he supported the application. He stated he owns the adjacent property to the subject property.

Ms. Harris asked if the applicant would comply with the 60% glass façade requirement. Mr. Guadagnoli replied yes.

Mr. Harrison noted that the tree adjacent to the building may have to be removed. Mr. Guadagnoli replied yes, noting that it is growing into the building.

Final comments from the Board were then accepted.

Mr. Moore stated that he would be in favor and stated that the plan was a great idea. He stated that expansion of a Montclair business into a building in need of updates would enhance the area.

Mr. Reynolds stated that he would be in favor. He noted that there is no increase in the number of employees and that the plan will improve the building.

Mr. Allen stated he would be in favor and noted that the area needs an upgrade.

Mr. McCullough stated he would be in favor and that the application would enhance the area. He stated that there is no impact to traffic as the number of employees will be the same.

Mr. Caulfield stated that he would be in favor.

Ms. Harris stated that she would be in favor.

Mr. Simon stated that he would be in favor.

Mr. Harrison stated that he would be in favor. He noted that the plan would upgrade the current building and improve this area of the Township. He stated that the parking condition will be improved as the applicant will now provide 3 off street spaces for employees with no increase in the number of employees. He also noted that the proposed addition to the building will align with the first floor below.

Mr. Harrison noted the conditions of approval:

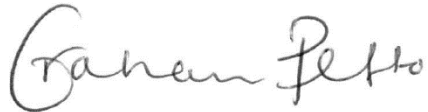
1. The applicant shall comply with and satisfy comments 3, 4 and 6 contained in the review memorandum prepared by W. Thomas Watkinson, P.E., C.M.E., Montclair Zoning Board Engineer dated October 12, 2018.
2. The applicant shall comply with Montclair Code Section 281-8.5B which requires that 60% of the street-facing façade be of transparent glass.
3. The applicant shall pay a non-residential development fee as detailed in Montclair Code Section 202-43.
4. The applicant shall file a consolidation deed merging Lots 1 and 2 in Block 3903 to be recorded in the Essex County Register's Office.
5. The applicant shall be bound by all representations made on its behalf by its attorney and professionals during the course of the public hearings.
6. 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. Reynolds, seconded by Ms. Harris to approve the application with the conditions as stated by Mr. Harrison. The application was approved unanimously.

ADJOURNMENT

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

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