



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT October 24, 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. Fleischer, Ms. Harris, Mr. Reynolds (arrived at 7:45pm), Mr. Allen, Mr. Simon, Mr. Caulfield, Mr. Sullivan and Mr. Petto. Mr. Harrison, Mr. McCullough and Mr. Moore were excused.

APPROVAL OF MINUTES:

October 17, 2018

Mr. Petto noted that the minutes of the October 17 meeting have not yet been completed and will be presented to the Board for adoption at the next meeting on November 7.

NEW BUSINESS – RESIDENTIAL:

App. 2581: 52 Llewellyn Road. Peter Lin. *Bulk variance of the side yard setback for principal structures in the R-Oa One-Family Zone District.*

Mr. Fleischer introduced the application to the Board. Present for the application was the applicant, Peter Lin.

Mr. Lin reviewed the application for the Board. He noted that the proposal is to construct a small addition on the second floor of the dwelling to extend over an existing first floor portion of the dwelling. He stated that the proposed addition would accommodate a closet for a bedroom. He noted that the lot is oddly shaped and that the existing first floor area below the proposed addition has an existing non-conforming setback of 7.39 feet.

Questions from members of the Board were then offered.

Mr. Caulfield asked how far the dwelling on the adjoining property is from the area of the proposed addition to Mr. Lin's dwelling. Mr. Lin stated that there is approximately another 10 feet to the dwelling from the shared property line. He estimated there is almost 20 feet between his dwelling and the dwelling on the adjacent lot.

Mr. Simon asked for clarification of the setback and if it would be any less than the existing. Mr. Lin stated that the proposed setback would align with the first floor and would not extend further.

Mr. Simon asked if the use would be a closet only. Mr. Lin replied yes.

Final comments from the Board were then accepted.

Mr. Caulfield stated he would be in favor.

Ms. Harris stated she would be in favor as it is no worse than the existing condition.

Mr. Simon stated he would be in favor.

Mr. Allen stated he would be in favor.

Mr. Fleischer stated he would be in favor. He noted that the lot is oddly shaped and that the proposed setback is in keeping with the existing non-conforming setback.

A motion was made by Mr. Simon, seconded by Ms. Harris to approve the application as submitted. The application was approved unanimously.

App. 2583: 27 Mulford Lane. Emanuel Goldman & Naomi Weinshenker. *Bulk variance of the side yard setback for accessory structures in the R-O Mountainside Zone District.*

Mr. Petto stated that the applicant had indicated he may be late for this evening's meeting. The Board agreed to move the application to later in the evening until the applicant arrived.

NEW BUSINESS – NON-RESIDENTIAL:

App. 2569: 112 Forest Street. Astro Realty Association, LLC. *Use variance to locate a restaurant use in the R-2: Two-Family Zone District.*

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

Mr. Trembulak introduced the application to the Board. He noted that the applicant is seeking use variance relief to use the former social club space as a restaurant. He stated that the existing building has a historic storefront constructed on to the front of the residential dwelling.

Mr. Trembulak introduced Steven Plofker, owner of the subject property and applicant to testify. Mr. Plofker stated that the prior use of the space was by the Astro Social Club. He noted that the club had an eating and drinking area in addition to social events. He stated that a very small restaurant was proposed to occupy the small storefront. Mr. Plofker stated that there are other properties in the area that he already manages that have on-site parking to accommodate parking demand for the restaurant use.

Questions from the Board were then accepted.

Mr. Simon asked about the number of parking spaces available in the area for the use. Mr. Plofker stated that there are about 40 spaces available at the property across the street, 18 Label Street, to accommodate restaurant parking.

Mr. Simon asked if signage would be provided to direct patrons of the restaurant to these parking areas. Mr. Plofker replied yes.

Mr. Simon asked what the hours of the proposed restaurant would be. Mr. Plofker stated that they would not be very long hours. He stated that the space is too small to accommodate a liquor license and would not have late evening hours.

Mr. Simon asked how many seats the restaurant would have. Mr. Plofker stated that the architect would present these figures.

Mr. Fleischer asked for clarification about the hours of operation, noting the property is located in a residential zone. Mr. Plofker stated that he would be open to a condition restricting the hours of operation to perhaps 10pm.

Mr. Fleischer also asked for clarification on the proposed parking locations. Mr. Plofker reviewed the nearby properties available for parking.

Questions from members of the public were then accepted.

Brad Finkel, owner of 110 Forest Street asked about the location of any venting from the building and impact on adjacent buildings. Mr. Plofker stated that the architect would be address this in his presentation.

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

Mr. Sionas introduced Exhibit A-1, a PowerPoint presentation of the proposed plan for the building. Mr. Sionas reviewed the exhibit in detail for the Board. He noted the unique historic configuration of the building with the storefront addition. He also noted that the proposed space would be for a very small restaurant.

Mr. Sionas noted that the storefront addition space would not be easily converted to a conforming residential use with its tall retail windows.

Mr. Sionas also noted that there is a small parapet wall above the one-story storefront addition of the building, behind which any vent duct would be located and well screened.

Questions from the Board were then accepted.

Ms. Harris asked about the height of the parapet wall. Mr. Sionas stated it is about 3 feet in height.

Mr. Sullivan noted the memorandum on the application prepared by the Historic Preservation Commission and asked if the applicant would comply with conditions 2 through 5. Mr. Sionas replied yes.

Mr. Fleischer referred to slide 2 of Mr. Sionas' presentation and asked about the location of available off-site parking. Mr. Plofker stated that off-site parking would be provided at 107 Forest Street as well as 16 and 18 Label Streets.

Mr. Fleischer asked if there were any conflicting evening uses at these sites that would overlap with a restaurant use for parking demand. Mr. Plofker stated that there are some evening uses at the other properties, including yoga, the Montclair Bread Company and occasional evening uses at the Label Street studio.

Mr. Fleischer stated that 5 spaces should be reserved during the evening hours exclusively for the restaurant use.

Ms. Harris stated that the use of these spaces may not just be required during the evening period if the restaurant is open earlier in the day.

Mr. Simon asked about waste storage for the restaurant. Mr. Plofker stated that there is a dumpster located across the street at 107 Forest Street that would serve the restaurant. He said given the use, trash would be removed from the restaurant frequently.

Mr. Caulfield asked if the exact space in the building that was used for the social club would be used for the restaurant. Mr. Sionas replied yes.

Mr. Caulfield asked how this building at 112 Forest Street is different from the building at 147 Forest Street, which was shown as another example of these historic storefront additions. Mr. Sionas stated that the building at 112 Forest Street is closer in proximity to the commercial zone district, which lies just across the street. He stated that a restaurant use is more appropriate for this site than 147 Forest Street. He noted that this end of Forest Street has more commercial development.

Mr. Fleischer asked about the venting for the restaurant use. Mr. Sionas stated that it would be possible to vent the restaurant up the side of the building to vent above the residential windows on the upper floors of the building. Mr. Fleischer noted that this should be a condition of any approval by the Board.

Questions and comments on the application were then accepted.

Brad Finkel, 9 Highmont Terrace, addressed the Board. He noted that he owns the adjacent property at 110 Forest Street. He stated that the current zone district for the property does not permit restaurant uses and that the associated trash, noise and traffic from the use would be a detriment to the neighborhood. He stated that even if the restaurant use was limited to take-out with little seating, the traffic and parking impacts for deliveries and pick-up would not be appropriate for the zone.

Gloria Asbury, 4 Friendship Place, stated that the prior Social Club use was very limited to nearby residents as a place to socialize after work. She stated that the Social Club did have legal problems. She stated that there was no parking demand for the Social Club as most visitors were nearby residents. Ms. Asbury stated concerns about a restaurant use at the property. She stated that parking is already a problem in the area, with the existing businesses, frequent events, the food pantry and the train station. She stated that the area cannot support another business.

Kim Mitchell, 2 Friendship Place, stated that she has lived in the area for three years and parking has been an issue. She stated that there is not room for another restaurant in the area and that it is already too congested.

Melly Christmas, 96 Forest Street, stated opposition to the proposed restaurant use. She stated that the area is already overloaded with traffic and cannot support another intense use like a restaurant.

Jennifer Reynolds, 66 Forest Street, stated that parking in the neighborhood is already an issue. She stated that there are also issues of trash and odors from the existing restaurants in the area. She stated that the welfare of the residents should be considered by the Board.

SueAnn Singletary, 98 Forest Street, stated that parking is already a significant problem in the area. She noted that there are already about 10 existing restaurants in the Walnut Street area. She stated that the impacts from another restaurant particularly with respect to garbage and trash would impact the residents.

Mr. Trembulak requested a brief recess to discuss the application with his client.

Upon return, Mr. Trembulak requested that the application be carried to the December 19, 2018 meeting of the Board. He stated that this would allow the applicant time to consult with the neighbors to address their concerns.

A motion was made by Mr. Allen, seconded by Mr. Reynolds to carry the application to the December 19, 2018 meeting.

NEW BUSINESS – RESIDENTIAL:

App. 2583: 27 Mulford Lane. Emanuel Goldman & Naomi Weinschenker. *Bulk variance of the side yard setback for accessory structures in the R-O Mountainside Zone District.*

Mr. Fleischer introduced the application to the Board. Present for the application was the applicant, Emanuel Goldman.

Mr. Goldman reviewed the application for the Board. He stated that he proposes to install a new generator on his property, in the area where existing HVAC equipment has been installed. He noted that the proposed generator location does not meet the required side yard setback. He stated that the gas line has already been installed. Mr. Goldman also referred to the submitted application photos and noted that the rear yard is not suitable to locate the generator as there is an existing patio.

Questions from members of the Board were then accepted.

Ms. Harris asked about the utility easement on the adjacent property. Mr. Goldman stated that the easement is for a utility company and cannot be built upon by the adjacent neighbor.

Mr. Fleischer asked about the setback distance of the generator from the dwelling. Mr. Goldman stated that it would be set away from the dwelling by 3 feet.

Final comments from the Board were then accepted.

Ms. Harris stated that she had no issue with the proposed location and noted that the generator is very small in size.

Mr. Simon stated that he would be in favor and that there is no impact to the adjacent neighbor.

Mr. Reynolds stated that he would be in favor, noting that the 10 foot utility easement on the adjacent lot provided additional separation between the generator and any adjacent structure on the neighboring property. He also noted that the applicant did evaluate placing the unit in the rear yard, which was not suitable.

Mr. Allen stated he would be in favor.

Mr. Caulfield stated he would be in favor.

Mr. Fleischer stated that he would be in favor.

A motion was made by Ms. Harris, seconded by Mr. Reynolds to approve the application as submitted. The motion was approved unanimously.

NEW BUSINESS – NON-RESIDENTIAL:

App. 2573: 40 South Fullerton Avenue. Willow Street Partners LLC. *Amended site plan approval.*

Mr. Allen recused himself from consideration of the application and departed the meeting.

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

Mr. Trembulak noted that the applicant has returned to the Board for final site plan approval as a condition of the prior subdivision approval granted by the Board. He stated that the applicant has approval to subdivide the existing church property to create two new single-family dwelling lots.

Mr. Trembulak introduced Architect Paul Sionas to review the proposal in detail for the Board.

Mr. Sionas introduced Exhibit A-1, a PowerPoint presentation of the proposed site plan. Mr. Sionas presented the presentation to the Board.

Mr. Sionas reviewed the plans for the two new dwellings and their associated detached garages. He also noted improvements to the church parking lot and the new proposed 12-foot driveway which will be located to provide ingress/egress access to The Crescent.

Mr. Sionas noted that the application has been reviewed by the Historic Preservation Commission and that the plans represent changes to respond to the Commission's comments.

Mr. Sullivan referred to the memo prepared by Board Engineer Tom Watkinson and asked if the applicant would comply. Mr. Sionas replied yes.

Mr. Fleischer referred to condition 1 of Mr. Watkinson's memo and asked if the applicant would install curbing in the parking lot. Mr. Sionas replied yes.

Questions from the Board were then accepted.

Mr. Caulfield asked if there was a change in elevation between the parking area and the rear yard of the proposed single-family dwellings. Mr. Sionas replied yes, noting there is a slope in this area.

Mr. Caulfield asked if storm water along this slope would be managed. Mr. Sionas replied yes, noting that the plans have been reviewed by Board Engineer, Tom Watkinson.

Mr. Caulfield asked about the proposed trash enclosure in the church lot and asked about visibility for vehicles entering the lot. Mr. Sionas stated that the enclosure could slide northward to improve visibility around the corner for vehicles.

Mr. Fleisher asked if the depth of the proposed garage could be reduced to 21 feet to eliminate the rear yard accessory structure variance. He also noted that the garage could slide rearward by 1 foot. Mr. Sionas replied yes.

Mr. Fleischer noted that the depth of the proposed lots is small compared to others on Plymouth Street. He asked if the proposed front yard setback was in keeping with other front yards on Plymouth Street. Mr. Sionas reviewed the front yard setback and stated that the proposed stepped front yards for the two adjacent dwellings provided a good transition from the church building at the corner to the adjacent residential area.

Questions from the public were then accepted.

Joan Senercia, 14 The Crescent, asked about the proposed fence along the driveway. Mr. Sionas noted that a new fence would be installed along the driveway. He noted that the fence would be 6 feet at the rear and then step down to 4.5 feet along the side of Ms. Senercia's dwelling. Ms. Senercia asked that the fence height of 6 feet be maintained along the side of her dwelling. Mr. Sionas stated that the applicant would continue the 6 foot fence height to the front façade of the dwelling at 14 The Crescent.

Ms. Senercia asked if there would be any lighting improvements in the church parking lot. Mr. Sionas replied no.

Ms. Senercia asked if there would be any water runoff on to her property. Mr. Sionas replied no, noting that curbing would be installed to manage runoff on the church property.

Ms. Senercia asked if the oak tree along The Crescent would be retained. Mr. Sionas replied yes.

Kurt Kozart, 26 The Crescent, stated that traffic safety along The Crescent is a concern. He stated that the proposed fence along the driveway and Ms. Senercia's property should lower in height as it approaches the street to allow vehicles to see traffic and pedestrians.

Chris Cavallaro, 12 Plymouth Street asked how far the dwellings would be set back along Plymouth Street. Mr. Sionas reviewed the proposed setbacks.

Mr. Cavallaro asked why the driveway for one of the dwellings curves through the front yard. Mr. Sionas noted that there is a fire hydrant located along the street as well as large street trees that are to be preserved, which required shifting the driveway location.

Final comments from the Board were then accepted.

Mr. Fleischer clarified that the Board members should comment both on the site plan and the variance to increase the height of the fence along 14 The Crescent.

Mr. Simon stated that he would be in favor of the plan. He stated that the applicant has made compromises to better fit the plan with the neighborhood. He stated that he is in favor of the fence height variance and that the fence should be stepped down in height as it approaches the street. He also agreed that the garage for the western dwelling should be reduced by one foot of depth and shifted rearward to eliminate the accessory building location variance.

Mr. Reynolds stated he would be in favor of the application and that it represents a good design. He also stated that he would be in favor of the fence height variance.

Mr. Caulfield stated that he would be in favor of the application.

Ms. Harris stated that she would be in favor of the application.

Mr. Fleischer stated that he would be in favor of the application. He stated that the plan is good for both the Township and the historic church. Mr. Fleischer reviewed the conditions of approval for the Board:

1. The applicant shall comply with and satisfy comments 1 through 7 contained in the October 20, 2018 review memorandum prepared by W. Thomas Watkinson, P.E., P.P., Board Engineer. With respect to comment 1, the applicant shall make surface improvements to the parking lot and curb improvements.
2. Parking spaces 8, 9 and 10 shall be designated for compact car use.
3. The plan shall be revised to move the west garage to the north to provide a minimum rear yard setback of 3.5 feet and a maximum depth of the garage of 21 feet.
4. The plan shall be revised to extend the 6-foot-high fence to the north adjacent to the front corner of the dwelling on the adjacent property to the west and then stepped down to 4 ½ feet towards The Crescent and further stepped down in order to provide adequate sight lines for vehicles entering and leaving the site.
5. The applicant shall be bound by 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 Mr. Simon to approve the application with the conditions stated. The application was approved unanimously.

ADJOURNMENT

A motion to adjourn was offered by Ms. Harris, seconded by Mr. Caulfield. The meeting was adjourned at 10:50pm.

Respectfully submitted,



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