



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT



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MINUTES OF THE BOARD OF ADJUSTMENT November 7, 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, Mr. Moore, Mr. Simon, Mr. Caulfield, Mr. Sullivan and Mr. Petto. Mr. Allen was excused.

APPROVAL OF MINUTES:

October 17, 2018

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

RESOLUTIONS:

Resolution for App. 2559: 35 Afterglow Way. Zachary & Lauren Zeltzer. *Bulk variance of maximum permitted building width of principal structures in 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. Reynolds, seconded by Ms. Harris. The motion was approved unanimously with Mr. Fleischer abstaining.

Resolution for 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 resolution to the Board. A motion to approve the resolution as submitted was offered by Mr. Reynolds, seconded by Ms. Harris. The motion was approved unanimously with Mr. Fleischer abstaining.

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

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

Resolution for 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 resolution to the Board. A motion to approve the resolution as submitted was offered by Mr. Caulfield, seconded by Ms. Harris. The motion was approved unanimously with Mr. Harrison abstaining.

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

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

Mr. Fleischer introduced the resolution to the Board. A motion to approve the resolution as submitted was offered by Mr. Reynolds, seconded by Mr. Caulfield. The motion was approved unanimously with Mr. Harrison abstaining.

NEW BUSINESS – RESIDENTIAL:

App. 2584: 10 Godfrey Road. Adrienne Himmelberger. *Bulk variance of the required side yard setback for deck addition in the R-1 One Family Zone*

Mr. Harrison introduced the application to the Board. Present for the application was the applicant Adrienne Himmelberger.

Ms. Himmelberger reviewed the proposed extension of the existing deck to the rear of her dwelling. She noted that the plan is to extend the deck by 4 feet.

Questions from the Board were then accepted.

Mr. Simon asked if the deck extension would align with the existing deck. Ms. Himmelberger replied yes.

Mr. Reynolds asked if the patio to the rear of the deck would be removed. Ms. Himmelberger replied yes.

Mr. Fleischer noted the setbacks marked on the survey and asked if the house is not aligned square with the lot. Ms. Himmelberger replied yes.

Mr. Moore asked if there was any screening or trees along the property line adjacent to the proposed deck extension. Ms. Himmelberger replied yes, noting that there is a fence and shrubs between the properties.

Mr. Harrison also noted that he had reviewed the site and that the rear yard is not visible from the street.

Mr. Caulfield asked about the proposed trestle above the deck. Ms. Himmelberger replied that the reason for the trestle is to provide shade.

Final comments from the Board were then accepted.

Mr. Caulfield noted that while the setback is small, there is no concern as the extension is aligned with the existing deck.

Ms. Harris agreed with Mr. Caulfield and stated she would be in favor.

Mr. Simon stated he would be in favor.

Mr. Moore stated he would be in favor.

Mr. Fleischer stated he would be in favor. He noted that this is a minor addition to the existing deck.

Mr. Reynolds stated he would be in favor, noting that the lot is small in size.

Mr. McCullough stated he would be in favor.

Mr. Harrison stated he would be in favor. He noted that the addition to the deck is small and in line with the existing deck and dwelling. He stated that while the setback is slightly less, as the house is not square on the lot, there would be no detriment to the public nor impairment of the zone plan.

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

App. 2585: 20 Montclair Avenue. Ram Bhadur. *Bulk variance of the required front yard setback for front porch addition in the R-2 Two-Family Zone.*

Mr. Harrison 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 a front yard setback variance for construction of a new front porch on the dwelling. Mr. Trembulak also introduced the applicant Ram Bhadur to the Board.

Mr. Trembulak introduced Naresh Mohan, surveyor for the applicant.

Mr. Mohan introduced Exhibit A-1, a revised set of plans for the Board. Mr. Mohan noted that the applicant appeared before the Historic Preservation Commission, which recommended changes to the plans. He stated that those changes are reflected in the plans submitted in Exhibit A-1.

Mr. Mohan reviewed the changes and noted that the roof of the porch is now to be a hip roof. He also noted that the base of the porch will be finished with a cedar wood lattice. He also reviewed the entry steps, which have been widened to the width of both doors.

of the two-family dwelling. Finally he noted that the support posts have been shifted to better align with the windows on the dwelling.

Questions from the Board were then accepted.

Ms. Harris asked about the depth of the existing covered entryway. Mr. Mohan stated that the existing covered entry is about 5 feet in depth and that the proposed porch will be about 6.5 in depth.

Mr. Bhadur stated that the original porch was too small and that a wider porch will allow for seating on the front porch.

Mr. Caulfield noted that construction had already begun and asked if the applicant was issued a stop work order for the construction. Mr. Mohan replied yes.

Mr. Caulfield asked if there would be access to the area below the porch. Mr. Mohan replied no.

Mr. Reynolds reviewed the submitted front yard setback calculations from the applicant. He noted that the proposed setback by the applicant is consistent with the adjacent dwellings.

Mr. Harrison asked if the existing columns, which had been installed will be relocated in accordance with the revised plans of Exhibit A-1. Mr. Bhadur replied yes.

Mr. Trembulak summarized the application for the Board and noted the relief sought of the required front yard setback.

Final comments from the Board were then accepted.

Ms. Harris stated that the proposed front porch addition will better align the dwelling with the adjacent homes on the street. She stated that the porch will enhance the look of the dwelling.

Mr. Simon stated he would be in favor.

Mr. Moore stated he would be in favor.

Mr. Fleischer stated he would be in favor.

Mr. Reynolds stated he would be in favor.

Mr. McCullough stated that he would be in favor.

Mr. Caulfield stated he would be in favor.

Mr. Harrison stated he would be in favor. He stated that the proposed encroachment into the required front yard setback is minor and would not impair the zone plan.

Mr. Harrison stated that a condition that the applicant adhere to the plans submitted under Exhibit A-1 should be added to the approval.

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

OLD 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 Alan Trembulak.

Mr. Trembulak summarized the previous testimony to the Board on the application. Mr. Trembulak called architect John Guadagnoli to review revisions to the plans submitted to the Board.

Mr. Guadagnoli reviewed the changes to the plans for the Board. He noted that the full site is now depicted in the plan, including the parking area and 12 on-site parking spaces. He noted that 15 spaces are required under the for the existing use of the building and that 1 additional space will be required to accommodate the storage addition to the building.

Questions from the Board were then accepted.

Mr. Reynolds asked about the height of the ceiling in the dormer and if it would be enough to occupy. Mr. Guadagnoli replied yes and noted that the ceiling would be high at the center but would slope under the dormer.

Mr. McCullough asked why the large tree in the parking lot would remain, when it could be removed to accommodate an additional parking space. Mr. Guadagnoli stated that the tree is in good health and noted that the current occupants of the building do not require on-street parking and can park all vehicles in the lot.

Mr. Simon asked if there would be any other changes to the interior. Mr. Guadagnoli replied no.

Mr. Simon asked about the number of employees on-site. Mr. Guadagnoli stated that between 12 and 16 employees are on-site during operating hours.

Mr. Sullivan asked if the 850 sq. ft. addition would be used for storage only. Mr. Guadagnoli replied yes.

Mr. McCullough asked if the floor of the attic would be sufficient to allow for occupancy as a structural load. Mr. Guadagnoli replied no, noting that the flooring would only support storage not full occupancy by people.

Mr. Fleischer asked for clarification of the load requirements. Mr. Guadagnoli reviewed.

Mr. Harrison asked about the two rectangles shown to the south of the building on the plans. Mr. Guadagnoli stated that these are depicting the location of trash cans on the site.

Mr. Harrison asked about deliveries to the site. Mr. Trembulak stated that the next witness would testify to the use of the building more.

Mr. Trembulak introduced Mitchel MacGregor, 275 East Bradford Avenue, President of Heidi Daus Enterprises, LLC to testify.

Mr. MacGregor stated that the company has owned the property for 14 years. He stated that the property serves as the jewelry manufacturers design studio, repair shop

and showroom. He stated that the building contains offices and storage. He stated that there is no manufacturing of the jewelry on-site. He stated that the web operations are also conducted from the building.

Mr. MacGregor stated that the small dormer addition would be used only for storage. He stated that the number of on-site employees is usually between 12 and 15. He noted that a few employees do take public transit to the Walnut Street train station.

Mr. MacGregor stated that all employees park in the lot, on-site and no street parking is used by employees. He stated that there would be no increase in traffic and no change in hours of operation as a result of the addition.

Mr. MacGregor stated that there is a dumpster and two garbage cans on site at this time. He noted that he would be willing to screen them as required under the ordinance. He stated that trash is removed from the site once every two weeks between 8am and 8:30am, prior to the start of business hours, which are weekdays 9am to 5pm.

Mr. MacGregor stated that deliveries are usually by FedEx or UPS and stated that delivery vehicles typically back up into the lot to load/unload. He stated that there would be no change in deliveries as a result of the addition.

Questions from the Board were then accepted.

Ms. Harris asked about the showroom and who would be on-site. Mr. MacGregor stated that the showroom is not frequently used and that it is used only for direct sales customers. He stated that there are no on-site sales offered.

Mr. McCullough asked about the parking. He stated that if most parking is occupied by employees, where will visitors park. Mr. MacGregor stated that most showroom visitors arrive by car service.

Mr. McCullough asked how often employees would be accessing the second floor storage area. Mr. MacGregor stated that it would be accessed as often as needed. He stated that usually it is only one employee at a time in the storage area.

Mr. Fleischer asked if the entire second floor would be used for storage. Mr. MacGregor replied no, noting that only the dormer and center area of the second floor are useable for storage. He noted that there is HVAC equipment in the attic that occupies space.

Mr. Reynolds asked if the attic space would be conditioned. Mr. MacGregor replied yes, but that it would not be optimally conditioned.

Mr. Harrison asked if the existing first floor storage would be relocated to the second level. Mr. MacGregor replied yes, noting that relocation of the storage would allow for a better use of space on the first floor, which as this time is constrained.

Mr. Harrison asked about garbage storage on site and if the applicant would agree to a trash enclosure. Mr. MacGregor replied yes.

Comments and questions from the public were then accepted.

Judith Murphy, 187 Inwood Avenue, owner of 79 North Fullerton Avenue, asked if the expansion allows for additional space of the first floor, would the business increase

operations by using this additional space. Mr. MacGregor replied that there will be no change in the frequency of deliveries by FedEx and UPS, only that they may take additional packages on each of their trips.

A neighbor from 74 Forest Street asked if trash could be removed from the property once per week to address garbage related concerns in the area. Mr. MacGregor stated that it would be possible to increase trash collection.

Mr. McCullough stated that trash should be collected once per week.

Mr. Trembulak summarized the application for the Board. He noted the requested variance for the use in the zone by the applicant.

Final comments from the Board were then accepted.

Mr. Simon stated that he would be in favor. He noted that there should be conditions to limit the dormer area to storage only. He stated that the addition would enhance the business.

Mr. Moore stated that he would be in favor. He stated that the proposed addition would maintain the building and not have any impact on the neighbors. He stated that the addition should be used for storage only.

Mr. Fleischer stated he would be in favor and recommended a condition that the office area be limited to its existing size only of 2,769 sq. ft, so as to prevent expansion of the office into the storage area.

Mr. Reynolds stated he would be in favor. He stated that the use is an existing non-conforming. He noted that the site is suited for the use and that there will be no additional employees on site.

Mr. McCullough stated that he would be in favor. He agreed with the recommended condition that the addition be for storage only.

Mr. Caulfield stated that he would be in favor and recommended that the applicant consider recycling to reduce the amount of waste.

Ms. Harris stated that she would be in favor with a condition of better trash management and if needed a pest management plan.

Mr. Harrison stated that he would be in favor. He stated that the site contains an existing building that was original used for non-residential purposes. He stated that there is sufficient space within the location to accommodate the expansion. He stated that the application represents an efficient use of land. Mr. Harrison stated that there would be no detriment to the public good and no impairment of the zone plan.

Mr. Harrison summarized the recommended conditions of approval:

1. Retail sales shall not be permitted at the property.
2. The second-floor use shall be limited to storage only.
3. Office use shall not exceed 2,769 square feet.
4. The applicant shall use aluminum or aluminum clad wood windows in the proposed dormer addition as recommended by the Historic Preservation Commission in its report dated September 27, 2018.

5. The trash area shall be enclosed as required by ordinance and a separate container shall be maintained for recyclables.
6. The applicant shall comply with conditions 2, 3 and 7 contained in the Board's March 16, 1988 resolution.
7. Trash shall be picked up at least one a week and before 9 a.m.
8. The applicant shall take appropriate measures to eliminate rodents on site.
9. The applicant shall pay the non-residential development fee required by Montclair Code Section 202-43.

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

NEW BUSINESS – NON-RESIDENTIAL:

App. 2567: 37 North Mountain Avenue. Montclair Town Center, LLC. *Amended site plan approval*

Mr. Harrison recused himself from the application.

Mr. Petto announced that the applicant has provided a letter requesting to carry the application to the December 19, 2018 meeting of the Board.

The Board announced that the application would be carried to the December 19 meeting with no further notice.

ADJOURNMENT

A motion to adjourn was offered by Ms. Harris, seconded by Mr. Caulfield. The meeting was adjourned at 9:20pm.

Respectfully submitted,



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