

MINUTES
Town of Westfield Board of Adjustment
February 13, 2019

The Westfield Board of Adjustment met on Monday, February 13, 2019, at the Westfield Municipal Building, 425 East Broad Street, Westfield, New Jersey.

In compliance with Chapter 231 P.C. OPEN PUBLIC MEETINGS ACT of the State of New Jersey, adequate notice of this meeting was provided by posting on the public bulletin board and publication in the newspapers that have been designated to receive such notice: the Westfield Leader and the Star Ledger.

REGULAR MEETING:

Vice-Chairman Fusaro opened the meeting by calling all present to join in the Pledge of Allegiance to the Flag.

ROLL CALL: Frank Fusaro, Robert Benacchio, Carla Bonacci, Eldy Pavon,
Allyson Hroblak, Matt Sontz, Mary Doyle, James Keenoy
ABSENT: Chris Masciale
Also present: Diane Dabulas, Esq., Donald Sammet, Town Planner and Linda Jacus, Board Secretary

ADOPTION OF MINUTES:

Vice-Chairman Fusaro called for a motion to adopt the minutes of the January 14, 2019, meeting. Robert Benacchio made a motion to adopt the minutes; Carla Bonacci seconded.

ALL IN FAVOR: Frank Fusaro, Robert Benacchio, Carla Bonacci, Eldy Pavon,
Matt Sontz, Allyson Hroblak, Mary Doyle, and James Keenoy
OPPOSED: None
ABSTAINED: None
ABSENT: Chris Masciale
Motion carried.

ADOPTION OF RESOLUTIONS:

Vice-Chairman Fusaro called for a motion to adopt the following resolutions for applications acted upon at the January 14, 2019, meeting:

Brett Kahn, 606 Benson Place, application approved with conditions.
Lori Spector, 132 Marlboro Street, application approved with conditions.
Jacqueline Stelling, 146 Harrison Avenue, application approved with conditions.
Robert Rossitto, 817 Lenape Trail, application approved with conditions.
Raymond & Gail Mooney, 815 Dartmoor, application approved with conditions.
Marcus Acord, 835 Wallberg Avenue, application approved with conditions.
Devin Clarke, 529 Wychwood Road, application approved with conditions.
Kenneth & Donna Pace, 638 Kimball Avenue, application approved with conditions.
Matthew Strycharz, 120 Marlboro Street, application approved with conditions.

Jamie Keim, 35 Azalea Trail, application approved with conditions.

Robert Benacchio made a motion to adopt the resolutions; Carla Bonacci seconded.

ALL IN FAVOR: Frank Fusaro, Robert Benacchio, Carla Bonacci, Eldy Pavon,
Matt Sontz, Allyson Hroblak, Mary Doyle, and James Keenoy
OPPOSED: None
ABSTAINED: None
ABSENT: Chris Masciale
Motion carried.

Vice-Chairman Fusaro stated that the vote of any Board Member on the full set of memorializing resolutions would not be construed to include participation by any member in voting on any resolution for which s/he did not vote, nor did not vote in favor of the action taken by the Board (pursuant to N.J.S. §40:55D-10g).

OTHER BUSINESS:

◆2018 Board of Adjustment Annual Report

Don Sammet stated the purpose of the report is to see what kind of variances are being requested. If there are variances that are being requested on a regular basis, it could be an indication an ordinance is outdated and does not fit the zone district. The Board can make recommendations for a potential ordinance change. There were 57 applications heard last year. The applications included a total of 128 variance requests, comprised of 111 “c”-type or bulk variances, and 17 “d”-type variances. Vice-Chairman Fusaro stated the Board will review the report, make any comments or changes, and will adopt it at the next meeting.

REQUEST FOR EXTENSION:

Mark Dow, 247 Prospect Street

Applicant is requesting an extension of approval memorialized on June 11, 2018 and July 9, 2018.

Mark Dow was sworn. Mr. Dow stated he has had some unexpected expenses and wanted to pay for the improvements out of pocket. He is asking for a one-year extension to July 9, 2019.

Open to the public for questions and comments. None. Closed to public questions and comments.

Carla Bonacci made a motion to approve the extension; Eldy Pavon seconded.

ALL IN FAVOR: Frank Fusaro, Robert Benacchio, Carla Bonacci, Eldy Pavon,
Matt Sontz, Allyson Hroblak, Mary Doyle,
OPPOSED: None
ABSTAINED: James Keenoy
ABSENT: Chris Masciale
Motion carried.

Extension approved.

CARRIED FROM JANUARY 14, 2019:

CGFR LLC., C/O Ralph Rapuano, 214 E. Grove Street

10/30/2018

Applicant is seeking approval to change the use from offices to residential apartments and will construct a two-story addition on the front of the building, on each side, contrary to Section 11.22A3, 11.22E4, 11.22E5, 11.22E8, 11.22E10, 11.22G1, 11.22G2, 17.02B2, 17.03B4, 17.03C5c of the Land Use Ordinance. Ordinance allows an apartment use on the second and third floors. Proposed are the first and second floors. Ordinance requires a minimum lot depth of 150 feet. Proposed is 149.82 feet. Ordinance requires a front yard setback of 40 feet. Proposed is 19.5 feet. Ordinance allows a maximum building height of 30 feet. Proposed is a building height of 30 feet for the new additions. Ordinance allows a maximum improvement coverage of 50%. Proposed is 64.5%. Ordinance requires a minimum habitable floor area of 750 square feet. Proposed are 5 apartments less than 750 square feet. Ordinance does not allow the habitable floor area devoted to residential use to exceed 1/2 of the total habitable floor area of the building or structure containing the residential use. Proposed is a habitable floor area devoted to a residential use to exceed 1/2 of the total habitable floor area of the building or structure. Ordinance requires 104 parking spaces. Proposed are 40 parking spaces. Ordinance does not allow parking in the side yard. Proposed is side yard parking. Ordinance requires a parking aisle width of 24 feet. Proposed is 21.5 feet. **Application deemed complete November 1, 2018. 120 day decision date is March 1, 2019.**

Frank Fusaro recused himself, Robert Benacchio presided over the application.

John Schmidt, Esq. (53 Cardinal Drive) stated although there seems there are a lot of variances to be considered, they are a number of pre-existing conditions. The real issue before the Board is whether or not the applicant can convert the building from a commercial use to a residential use. The reason for converting this the building to a residential use is economic inutility.

Ralph Rapuano (912 Bailey Court) appeared on behalf of CGFR. Mr. Rapuano stated he purchased the property 11 years ago. When the property could not be rented as office space, we came to the Board and received approval for a medical office use. There have been several real estate agencies used over the years to rent the space, but were unsuccessful. It was decided the best thing to do with the building is a residential use. A photograph of the front of the building was marked as Exhibit A-1. A photograph of the rear of the building was marked as Exhibit A-2. A rendering of the proposed building was marked as Exhibit A-3. The building will have 18 apartments, which will include three COAH units. Mr. Rapuano stated the apartments that are less than 750 square feet are more in demand than a larger apartment.

Opened to the public for questions. None. Closed to public questions.

William Hollows (192 Central Avenue, Stirling) was sworn. The Board accepted Mr. Hollows as a licensed engineer.

Mr. Hollows stated the subject property is 150 feet x 293 feet, contains a building of 43,922 square feet, and is located in the O-1 Zone. He described the surrounding area, which includes single family homes to the east, a mixed-use building to the south, a two-story office building to the north, and to the west are indoor tennis courts and offices for the Greek church. The applicant is proposing to enlarge the existing building by adding two, separate two-story

additions onto the front of the building, and change the use to residential, consisting of 18 apartments. There is an existing parking lot, and the ingress and egress that goes around the building will remain. RSIS standards require 2 parking stalls per unit, which would be 36 parking spaces, and 40 parking spaces are proposed. There are 42 existing parking spaces with two parking stalls being eliminated. The proposed landscaping will include some plantings along the rear property line with additional screening in front of the parking stalls, along with a 6-foot board on board fence. The dumpster area enclosure will double in size and will have a new gate. The a/c units will be screened and 11 pole mounted light fixtures will be installed. Mr. Hollows stated other than the use variance, a front yard setback variance is required, 40 feet is required and 19.5 feet is being requested. A height variance is required because the height of the existing building is 39.5 feet, which is an existing non-conformity; the additions will meet the maximum 30-foot height requirement. The maximum improvement coverage permitted is 50%, and 64.5% is proposed. On the right side of the building, the parking aisle width will be 21.5 feet where 24 feet is required, which is a pre-existing condition. Another pre-existing condition is the lot depth of 149.82 feet where 150 feet is required. Mr. Hollows described the drainage stating, there are existing storm drains in the parking lot that go out to Grove Street so the current drainage would be sufficient for the apartment use, and there would not be any increased runoff from the property.

Opened to the public for questions.

Robyn Schaffer (206 Elizabeth Avenue) was sworn. Ms. Schaffer asked about the dumpster location and trash pickup. She also asked if the existing sewer would be adequate for the number of proposed apartments, and what type of screening is proposed to mute the noise from the a/c units.

Closed to public questions.

David Karlebach (38 E. Ridgewood Avenue, Ridgewood) was sworn. The Board accepted Mr. Karlebach as a licensed planner.

Mr. Karlebach described the site, and stated this a gut renovation with building additions, which will be off the front of the building so there is not a further encroachment to the residential properties abutting the rear. The first-floor addition will be 2,567 square feet and the second-floor addition will be 2,645 square feet, which is a total of 5,212 square feet. The building coverage will increase to 22.7% from the existing 17.9%. The property is located in O-1 zone, which permits apartments on the second floor. The existing non-conformities that will be continued are the aisle width, the parking setback, and the lot depth. The minimum unit size allowed is 750 square feet and there are 6 undersized units proposed. The maximum improvement coverage permitted is 50%, and 64.5% is proposed. Only half of the total habitable floor area is permitted for residential use, and now 100 percent of the floor area is proposed. The front yard setback being requested is 19.5 feet where 40 feet is required. 104 parking stalls are required for the O-1 zone. Currently there are 42 existing parking spaces and the applicant is proposing to eliminate 2 stalls. The surrounding neighborhood consists of single-family homes, which are buffered by mature deciduous trees, and a mix of land uses with varying front yard setbacks. The applicant has tried to market this property as office space without any success, 11 years is a long time to have the property sit vacant. This site is well suited for a residential use because the building already exists and can readily be modified. Second floor apartments are permitted in the zone so the use variance focuses only on the ground floor use. The proposed use will revitalize a long dormant site and make it a productive asset to the community. This will expand housing opportunities and bring more rentals to a community dominated by single family homes. The bulk variances can be considered under the C1 or C2 criteria. The building cannot be used for office purposes and is far better used for a residential purpose. A broad range of unit types are proposed so the 6 smaller units will promote the public good by having lower rents.

The front yard is consistent with front yards on Grove Street, and the new additions will add visual interest. Mr. Karlebach stated this application does advance several important purposes of the municipal land use law. It promotes a desirable visual environment and is a more efficient use of the land. The applicant's plan represents a good design and has the potential to be a very attractive building. Leaving the building vacant is a substantial detriment to the neighborhood. Renovating the building and returning it to a productive use, promotes the public good and should not be viewed as detriment. The only massing will take place in the front yard, which is well removed from the surrounding homes. The public good is also promoted by creating more households to support area businesses. There is not any substantial detriment to public good or substantial impairment of the zone plan or zoning ordinance.

Opened to the public for questions.

Robyn Schaffer (206 Elizabeth Avenue) asked how many apartments does the town need since there have been a lot of new developments being built around town.

Closed to public questions.

The following applications are carried to the March 11th meeting:

Kevin & Michelle McGurn, 421 Birch Avenue
Eric Muchalski, 909 North Avenue
Thomas & Brittany Moore, 1121 Wychwood Road
Jeanne Martel, 250 Seneca Place

Open to public comments.

Maureen DiFalco (209 Elizabeth Avenue) was sworn. Ms. DiFalco stated it is unfortunate that applicant's investment did not work out, but the neighboring properties should not bear the burden. The applicant is asking for approvals that greatly exceed the land use ordinance. Some concerns are parking, the sewer system, and the dumpster location. Most of the other new developments being constructed in town do not back up directly to the backyards of their neighbors.

Robyn Schaffer (206 Elizabeth Avenue) was sworn. Ms. Schaffer stated she has lived at the property for 20 years. The applicant is asking for a large number of variances, and this is not the first time this property has come before the Board. The property is overgrown and has fallen in disrepair with graffiti and broken windows. Photographs of the property in disrepair were marked as Exhibit O-1. Ms. Schaffer referring to the photographs stated, this is what is out there after the last round of variances were granted. We are looking to maintain the quality of life we currently have. There was not an argument by the applicant of why this would be beneficial to the town, and why the addition needs to be built. This request should be denied.

Haisu Yang (223 Elizabeth Avenue) was sworn and stated she is concerned about the privacy of the homeowners living behind the subject property, and if the applicant is providing sufficient screening. A photograph was marked as Exhibit O-2.

Closed to public comments.

The Board had concern about the massing that is going to occur from the additions. The front yard setback variance requested is well below the average of the other properties in the zone. There was not any analysis provided to the Board which established the economic inutility argument. The request goes well beyond by the existing ordinance. If the zone becomes

obsolete, it's the governing body who needs to change the zoning, and not something that should be done be a variance.

Matthew Sontz made a motion to deny the application; Carla Bonacci seconded.

ALL IN FAVOR: Eldy Pavon, Matt Sontz, Carla Bonacci, Mary Doyle, Allyson Hroblak
 OPPOSED: Robert Benacchio James Keenoy
 ABSTAINED: Frank Fusaro
 ABSENT: Chris Masciale
 Motion carried.

Application denied.

Avalon Bay Communities, Inc., 177 East Broad Street/105 Elm Street 10/09/2018

Applicant is seeking an amendment to a previous approval granted June 12, 2017. Applicant is seeking a conditional use approval to allow a rooftop patio, to increase the area of the ground level patio from 330 feet to 558 feet, and decrease the proposed addition from 967 feet to 739 feet contrary to Section 11.25E3, 18.24, and 11.25E2 of the Land Use Ordinance. Ordinance requires a minimum rear yard setback of 16 feet. Proposed is 5 feet. Ordinance requires a side yard setback of one foot for every two feet of building height when the building is located in the CBD zone district, but not less than ten feet. Proposed is 2.3 feet. **Application deemed complete January 3, 2019. 120 day decision date is May 3, 2019.**

Stephen Hehl, Esq (370 Chestnut Street, Union) appeared on behalf of the applicant. Mr. Hehl stated this application is for a minor modification to a previous approval. There was approval by the Board for an addition to the rear of the building with a patio area. The applicant reviewed the plan, and decided to make the addition smaller and the patio larger. By making the addition smaller, the rear yard setback is being increased. The town ordinance has been recently amended to allow a rooftop terrace, which the applicant is looking to add. The rooftop terrace is a conditional use, and we will meet all of those conditions.

Herbert Lauterwald (18 Hamilton St, Bound Brook) was sworn. The Board accepted Mr. Lauterwald as licensed architect & engineer.

Mr. Lauterwald stated the changes to plan include a reduction of the addition to 739 square feet and increases the size of the patio area to 558 square feet. The new addition will have a rooftop patio. The rear yard deficiency is increased by one foot and the rooftop patio will comply with town ordinance. The access to rooftop will be through the addition where there will be a stairway and a small elevator for barrier free access.

Opened to public questions. None. Closed to the public questions.

John McDonough (101 Gibraltar Drive, Parsippany) was sworn. The Board accepted Mr. McDonough as a licensed planner.

Mr. McDonough stated there are two variances being sought. The side yard setback variance is matching the previously approved setback of 2.3 feet. The other variance being requested is for the addition, which was previously approved at 4 feet from the rear property line, and is now being increased to 5 feet. By the setback being increased, the application is moving more into conformance with the zone scheme. There will not be any substantial detriment to the surrounding properties or any substantial impairment to the zone plan and/or ordinance.

Open to public questions. None. Closed to the public questions.

There was a discussion by the Board about removal of a wall and the fencing proposed. Also discussed was landscaping and seasonal plantings, and inclusion of brick decorative columns in the fencing.

Ronald Ladel, (517 Route 1, Iselin) Senior Vice President of Avalon Bay was sworn. He testified about the proposed fencing and the existing condition of the space. The prior approval requested the fencing be put in place. Mr. Ladel confirmed the applicant is interested in the aesthetics, and agreed to work with the Town on the design of the fencing and the lighting plan.

Open to public questions and comments. None. Closed to the public questions and comments.

The Board felt this was a slight increase in the patio and a reduction of the addition. The applicant will comply with all the previous conditions, which are still in effect. A condition of approval will be the design of the fencing for the patio area and an acceptable lighting plan will be subject to review of the Town Planner.

Robert Benacchio made a motion to approve the application with above condition; Eldy Pavon seconded.

ALL IN FAVOR: Frank Fusaro, Robert Benacchio, Eldy Pavon, Matt Sontz, Carla Bonacci, Allyson Hroblak, Mary Doyle
 OPPOSED: None
 ABSTAINED: James Keenoy
 ABSENT: Chris Masciale

Motion carried.

Application approved.

Alexandro & Krista Posada, 822 Village Green

9/5/2018

Applicants are seeking approval to partially enclose an existing front porch contrary to Section 12.04F and 12.03D of the Land Use Ordinance. Ordinance allows a maximum building coverage of 20%. Proposed is 20.54%. Ordinance requires a minimum front yard setback of +40 feet. Proposed is +39 feet. **Application deemed complete January 11, 2019. 120 day decision is May 11, 2019.**

Alex Posada was sworn. Mr. Posada stated their front door and stairs are about 3 feet apart, which makes entering the house and passing the stairs hazardous. We are looking to move the front door out and enclose a portion of the existing front porch, by adding a 59 square foot vestibule. There is not any additional land on the site being covered, but there is an increase in the building coverage. The existing front porch is under the 24% allowable building coverage. The addition of a new vestibule, which is enclosing a portion of porch, increases the building coverage because the porch is no longer an open structure.

Opened to public questions or comments. None. Closed to public questions and comments.

The Board felt that this was a minor change, and would not have any negative impact on the neighborhood since a portion of the porch would remain open.

Robert Benacchio made a motion to approve the application; Carla Bonacci seconded.

ALL IN FAVOR: Frank Fusaro, Robert Benacchio, Eldy Pavon, Matt Sontz, Carla Bonacci, Allyson Hroblak, Mary Doyle

OPPOSED: None

ABSTAINED: James Keenoy

ABSENT: Chris Masciale

Motion carried.

Application approved.

There being no further business a motion to adjourn was made, seconded and carried. The meeting adjourned at 11:30 pm.

Respectfully submitted,

Linda Jacus
Board Secretary