

MINUTES
Town of Westfield Board of Adjustment
December 18, 2019

The Westfield Board of Adjustment met on Wednesday, December 18, 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.

SPECIAL MEETING:

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

ROLL CALL: Chris Masciale, Robert Benacchio, Allyson Hroblak, Carla Bonacci, Eldy Pavon, Mary Doyle
Darielle Walsh (PB Member)

ABSENT: Frank Fusaro, James Keenoy, Matt Sontz

ALSO PRESENT: Diane Dabulas, Esq., Donald Sammet, Town Planner, Linda Jacus, Board Secretary

CGFR LLC., C/O Ralph Rapuano, 214 E. Grove Street 4/18/2019

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, 11.22G2, 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 64.4%. 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 38 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 October 21, 2019. 120 day decision date is February 18, 2020.

Chairman Masciale made an announcement that the Board retained two experts for the application, Paul Ricci (45 Bleeker St, Millburn) and Art Linfante (301 South Livingston Avenue, Livingston). The Board accepted Mr. Ricci's credentials as a licensed planner and Mr. Linfante's credentials as a licensed real estate appraiser.

John Schmidt, Esq. (53 Cardinal Drive) appeared on behalf of the applicant.

Chairman Masciale swore in Ralph Rapuano (1021 Minisink Road). Mr. Rapuano stated he did a survey of the downtown area to determine the number of commercial properties for lease or for sale located throughout the downtown. He traveled down East Broad Street, North Avenue, Elm Street, Grove Street, Prospect Street, Central Avenue, South Avenue, and Euclid Avenue. The purpose was to indicate there is an excess of commercial/office space available for lease or for sale. Mr. Rapuano stated it is extremely difficult to rent this property even with reduced pricing, as the market is inundated with vacant properties in town and in surrounding towns like Cranford and Garwood.

Open to public questions.

Art Linfante (301 South Livingston Avenue, Livingston) asked why the applicant surveyed the vacant properties.

Closed to public questions.

Chairman Masciale swore in Roger Winkle (947 Park Avenue, Plainfield). The Board accepted Mr. Winkle's credentials as a licensed architect.

Mr. Winkle stated the applicant wanted to convert the existing commercial building to residential units. A copy of the original drawing was marked as Exhibit A-5. Mr. Winkle stated the latest revisions to the plans show a proposed addition that will add about 20 feet to each side of the building. The height of the building will not be changed, and the front yard setback will be 19.5 feet. The building will be 2 stories with 8 apartments on each floor. There will be 5 one-bedroom apartments, 2 two-bedroom apartments, and 1 three-bedroom apartment on each floor. All apartments meet the 750 square foot minimum size requirement. The exterior of the building will look similar to what is there now with the same brick and stucco.

Open to public questions.

Art Linfante (301 South Livingston Avenue, Livingston) asked what the height is from slab to slab and floor to floor.

Closed to public questions.

Chairman Masciale swore in Michael Tobia (92 Overlook Road, Morristown). The Board accepted Mr. Tobia's credentials as a licensed planner.

Mr. Tobia marked a color rendering of the site plan as Exhibit A-6. He stated in 2009 there was a brief uptick in the medical office space market. It was a movement that lasted for only a few years and a medical office use was secured for this property, but nothing has happened on the property since. The applicant is seeking a variance relief as the zone does allow a residential use on the upper floors, but not on the ground floor. Other variances we are seeking include a residential use is only allowed in 50% of the building, and we are seeking 100%. The impervious coverage will be increased to 64.4%, an increase of about 4%. The average front

yard setback in the area is 24.8 feet, and the applicant is proposing a front yard setback of 19.5 feet. Thirty-eight parking stalls are proposed where the ordinance requires 104 parking stalls, which is a technicality. The zone is a mixed-use zone that contemplates parking for office space, not residential, and what is being proposed now is 2.3 parking spaces for each apartment, which is twice of what we see in today's market. There are many existing conditions on the site, which are non-conforming that were previously approved in the 2009 zoning application, and will be unchanged as a result of this application. Mr. Tobia stated a use variance may be granted if a property is zoned into economic inutility; you may grant a variance for another use, and we are asking that to be recognized by the Board. There was testimony from two real estate witnesses that the building has not been able to be rented after a number of years. One of the worst things you can have in a neighborhood is a vacant building. Not everyone wants to live in a single-family home. 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, and it will also provide affordable housing units. When we looked at this project architecturally, we thought this horseshoe type arrangement created more visual interest than the flat facade that exists on the building now. This is an appropriate use of this land because when you look at the building from the back where there are single family homes, the rear facade and the whole interface with the parking lot will look the same. The massing for the building is established and will not change, and the front of the building faces two office buildings across the street. The current use is the least efficient use of the land, and bringing more housing to town is more efficient. The master plan urges a variety of housing types, and apartments help make this property a more efficient use, which would be consistent with master plan directives. Mr. Tobia stated the applicant has made many stipulations throughout the application. The applicant agreed to move the dumpster to another location as requested by a neighbor. The a/c units have been moved to the side of the building where they would be further away from the residents and have less impact. The trash dumpster would be enclosed with brick or stucco instead of wood to make it more aesthetically pleasing. More shrubs will be planted around the property to screen it. A lot of things have been done to soften the impact on the neighborhood. Referring to the traffic testimony, Mr. Tobia stated 72 trips would come out of a doctor's office and 8 would come out of a residential use; that is 9 times the traffic that would come out of the permitted office use. It leaves me to conclude that traffic from the residential use would not be a substantial detriment. The proposed use would not cause any substantial impairment to the O-1 zone, nor would it cause any substantial detriment to the public good.

Open to public questions.

Maureen DiFalco (209 Elizabeth Avenue) asked for the definition of the Central Business District, and how the rents charged in the Central Business District compared to Grove Street. She also about the location of the a/c units, and asked for clarification of the traffic study. Questions were asked about lighting and if there would be any effect on the surrounding neighbors.

Closed to public questions.

Open to public comments:

Maureen DiFalco (209 Elizabeth Avenue) stated after all of these meetings we are getting closer to some kind of compromise, but she is concerned about what is going to happen physically on the site. Ms. DiFalco stated she is concerned about overcrowding schools and overburdening the sewerage system, and what the project would do to property values.

Art Linfante (301 South Livingston Avenue, Livingston) stated after listening to the testimony we know there are not any functional issues with building, there is adequate parking, and the only detriment is it's not in the center of the town. There have not been any lease offers over the last 10 years. The amount of rent being charged has never been reduced. Mr. Linfante stated to prove economic inutility, you need data and some kind analysis. There were no facts or data provided by the applicant that we were able to look at or check. There was not any discussion of comparable buildings with similar issues that were determined to be economically inutile. There was not any support that off-center locations are so unique that it would cause inability for the property to be leased, and there wasn't any rent rate studies or vacancy studies completed. There was not any evidence or data that the rent being asked for was appropriate for this building. The testimony given was net opinion testimony without any data. The verbal statistics are fine, but are only the first step. Mr. Linfante stated I understand the testimony provided, but it does not rise to the level that it would prove there is economic inutility.

Closed to public comment.

Some of the Board members felt the proposed plan with only 16 units was a better plan than what presented with the previous applications. The applicant tried to address the concerns the Board had and tried to lessen the impact to the neighborhood. The residential units would be less of a detriment to the neighborhood than the office use it was originally zoned for. Other members felt there was not enough factual information provided to prove economic inutility. All that was given was verbal testimony. There was concern about the density and coverage variances being requested. The density and coverage are being increased greatly beyond what was previously approved, which seemed like a maximum amount last time.

Chairman Masciale called for a motion. Robert Benacchio made a motion to approve; Darielle Walsh seconded.

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

Motion carried.

Application denied.

There being no further business, a motion to adjourn was made, seconded and carried. The meeting adjourned at 10:53 pm.

Respectfully Submitted,

Linda Jacus
Board Secretary