

**CITY OF NEW BRUNSWICK
BOARD OF ADJUSTMENT
APRIL 23RD, 2018
MINUTES
7:30 p.m.**

I. ROLL CALL

| | |
|---|---|
| x | Nancy Coppola, Chair |
| X | John Cox, Vice Chair |
| X | Margaret Chester |
| X | Sue McElligott |
| | John Zimmerman |
| | |
| X | Ivan Adorno |
| | Doug Sheehan (Alt #1) |
| X | Charlotte McNair (Alt #2) |
| x | Evelyn Azcona (Alt #3) |
| | |
| | |
| x | Board Attorney Aravind Aithal |
| x | Board Secretary/Director of Planning Glenn Patterson |
| x | Principal Planner Mark Siegle |
| x | Board Planner Henry Bignell |
| | Board Planner Todd Bletcher |
| | Board Engineer Richard Moody |
| x | Conflict Engineer Charles Carley |

II. PUBLIC ANNOUNCEMENT (OPEN PUBLIC MEETING ACT)

III. SALUTE TO THE FLAG

IV. MINUTES OF THE BOARDS MARCH 26TH, 2018 MEETING

Motion To Approve: Cox

Second: Adorno

Approved by unanimous voice vote

**V. COMMUNICATIONS AND REPORTS-
Resolutions of Memorialization**

- A. ROBERT WOOD JOHNSON PROPERTY HOLDING CORPORATION, Z-2018-01**, Site plan, subdivision, and variance application for the construction of an addition to the existing Ronald McDonald House located at 145 Somerset Street, Block 49, Lots 11.01 and 18.01, Zoning District: R-5A

Motion made by: Chester

Seconded by: McElligott

| Yes | No | |
|-----|----|---------------------------|
| | | Nancy Coppola, Chair |
| X | | John Cox, Vice Chair |
| X | | Margaret Chester |
| X | | Sue McElligott |
| | | John Zimmerman |
| | | |
| | | Ivan Adorno |
| | | Doug Sheehan (Alt #1) |
| X | | Charlotte McNair (Alt #2) |
| | | Evelyn Azcona (Alt #3) |

VI. NEW BUSINESS

- A. GILBERTO MERCADO, Z-2017-15**, Site plan and variance application for the construction of a mixed-use building located at 405/409 Livingston Avenue and 52 May Street, Block 340, Lots 1.03, 3.02, and 5.01. Zoning District: C-3A

Ms. Coppola asked if any board members had conflicts with the application. No one indicated any conflicts.

Peter Lanfrit, Esq.

He stated the application was amended during the technical review process to remove the office space originally proposed and is now just a multi-family residential project. As a result of the change, a D1 use variance is needed as well as a C height variance and a parking variance.

Robert Gazalle, Eng

The property consists of three lots in an "L" shape at Livingston and May Streets.

The site is in the C-3A zone. The proposal is to construct a 3-story apartment building with 4 apartments per floor for a total of 12. There are no setback variances. A parking lot is proposed behind the building with 17 parking spaces. There is also public transportation along Livingston Avenue. A bike rack is also provided. The height is 41' whereas the height limit is 40'. There are several design waivers also requested.

The driveway aisle width requires a waiver but he feels it is sufficient.

The garbage enclosure is sufficiently sized and will be screened from public view.

The site drains to the rear of the site. An underground detention basin is proposed to meet the stormwater standards. The stormwater plan was reviewed and accepted by the City.

A 6ft high vinyl boundary fence is proposed.

Lighting is proposed with 2 building mounted lights and 3 pole mounted lights. There is limited spillage onto adjoining sites.

The handicapped parking is provided in the rear parking lot. If the UCC officials decide a front handicapped access to the building is not required, they will eliminate the proposed handicapped ramp in the front.

The design waivers are:

The driveway curb cut is within 5 ft of the property line instead of 10 ft, but it is adjacent to a proposed driveway on the adjacent house.

The parking aisle is 22 ft instead of 24 ft.

Parking 10 ft buffer adjacent to a residential use where it is less than 10 ft in two locations. The violations about a back yard and are 15-18 ft from the adjoining house.

Only an address sign is proposed. It is compliant with the standards.

No basement is proposed.

The three lots will be consolidated.

Ms. Chester asked if the transformer would emit any noise. The engineer said no.

Lawrence Johnson, Jr. Architect

His father prepared the plans but he is familiar with them.

The proposal is for 12 units, with 10 2BR units and 2 1BR units.

The units can be accessed from either Livingston Ave or the rear parking lots. Heating and cooling is through through-the-wall PTAC units. There are no condensers on site.

The building façade is brick on all four sides with stone accents, with a pitched roof to provide a colonial look.

The height exceeds the 40' limit, as it is exceeded by 1' foot. The extra foot of height is proposed to maintain the proper proportions of the roof slope aesthetically.

If utility meters are on the outside, they will be painted to match the building color.

Kevin O'Brien, Planner

A use variance is required as there is no mixed use proposed for the project. There are also bulk variances previously discussed.

A-1 Aerial neighborhood photo. This is the most recent Google Earth image. The 5 block area from Charles to Rutgers St is entirely residential. The property is in the middle of this area. Also, it would be difficult to lease a commercial space in this primarily residential area as he cited data showing vacancies increasing in New Brunswick. A commercial use would also add traffic to the site and neighborhood. It is a better planning alternative to have the building be fully residential.

The height variance is justified as it is only 1.5 ft above the maximum. The building is trying to have a residential character and the roof line as drawn assists in this.

The apartments are small, 1 and 2 BR, which typically have only 1 or two occupants per unit with one car. There are more parking spaces than units. Additionally, it is walkable to downtown and is near transit.

The Master Plan goals include providing unique, high quality housing. Also providing infill development and a variety of housing choices. Isolated retail uses are discouraged. The application addresses these goals.

The MLUL goals a) promotion of health and welfare, and g) appropriate visual aesthetics are supported by the application.

The negative criteria are addressed as he finds no detriments as the building fits in with the character of the neighborhood.

From a planning perspective, it is an appropriate use that meets MLUL goals, it is compliant with Master Plan goals and there are no negative impacts. It is particularly suited for this location as it is a traditional residential building for the area. The bulk variances can be granted on a C2 basis and the positives outweigh the detriments.

Mr. Adorno asked if a traffic impact statement was done as he is concerned with entering and exiting the site. Mr. Gallente said the entrance/exit will be signed with a stop bar and sign. The traffic generated is about 56 trips per day. The driveway is aligned perpendicularly to the street. It is a safe design.

Mr. Cox asked if the owner attempted to acquire additional property. Mr. Lanfrit said the adjoining properties are fully developed. Mr. Cox said he was concerned about the location of the driveway and the adjacent driveway from each other.

Public:

Adrianna Rowe, neighbor

She expressed concerns about the parking in the neighborhood and that the project would exacerbate the problem. Loretto St is a one-way street and there are often crashes there.

Fernando Marin, neighbor

There is a problem with parking in the area and the streets are narrow. It is difficult for two cars to pass at times. The driveway apron will take up an existing on-street parking space.

What will the impact be on water pressure?

Mr. Lanfrit said they had not done a traffic impact study. They will do one if the Board requests this. The board so requested. Regarding the water pressure, as part of due diligence they will do a pressure test that is shared with the City Engineer.

Andrew Szabo, neighbor

He expressed concerns about existing cedar trees being cut down.

He prefers the site be developed with 2-family houses not a multi-family building. He feels it is out of scale.

More parking spaces are needed.

The prevailing winds will cause smells to go into the neighborhood.

Mr. Gazelle said there would be individual cans for the trash. Mr. Mercado will have a private hauler pick up the trash.

Ms. Coppola suggested that the hauler could pick up more frequently. Gazelle said they would provide more frequent pick up as a condition of approval.

The cedar trees will try to be preserved. A revised landscaping plan will be presented before the next hearing on the application.

_____ Belez, neighbor

He is concerned with the garbage pickups being early in the morning and being noisy.

Mr. Lanfrit said they will look at time restrictions on the hours for trash pick up.

Patricia Gomez Rodriquez, neighbor

Expressed concerns about the trash enclosure attracting vermin and insects.

She said the traffic on Livingston was difficult to navigate now.

She expressed that the parking was insufficient as many tenants will try to overcrowd the units.

Mr. Lanfrit said Mr. Mercado has been a long-time New Brunswick property owner and he has not had issues with trash and similar problems. He maintains his buildings well. He will get information from the hauler about frequency.

Charlie Kratovil

He supports the idea of a traffic study.

The only way the city can grow is if more people use mass transit. The applicant should look at how they can get tenants to use transit instead of cars, such as installing a bus shelter.

Gil Mercado, Applicant

He said he has been fixing and developing houses in New Brunswick and he maintains them well. He has a 10 unit building on French St and it has only 17 occupants. He will have a maintenance person at the property.

Ms. Rodriquez expressed concerns about overcrowding by the tenants.

Mr. Lanfrit asked to carry the hearing to June 25 with new personal notice. He granted an extension of time through the July meeting.

B. JCM INVESTORS 1012, LLC, Z-2018-04, Site plan and variance application for the construction of a mid-rise multifamily apartment building to be located at 111-113 Bayard Street, Block 21, Lot 2.01, Zoning District: C-4

Ms. Coppola recused herself as the adjacent property is owned by RWJUH, where her husband is employed.

Mr. Aithal advised that the project has more than 25 units and a disclosure of ownership has to be filed. The counsel has indicated it is a sole investor. The board can hear the application but cannot memorialize a resolution until the disclosure is received.

There are also only 6 members eligible for this hearing and the applicant has a right to 7 members. The applicant was asked if they would proceed with 6 members. Mr. Rubin, the attorney, asked to go forward tonight as he didn't expect to finish testimony tonight but would like to put as much testimony on the record as possible.

Nick Daurio, Project Manager

The company has over 400 units in Paterson and several thousand in North Jersey. Matthew Florio is the sole owner. They started to empty the building out two years ago. It is an existing 36-room rooming house.

A-1 Photo of existing boarding house

The building appears as two buildings but they are connected and function as one. The rooming house was a problem for the neighborhood. It is now vacant, but they have not abandoned the use. They retain the right to restart the rooming house if the application does not go forward.

The project is to create 37 1BR apartment units.

The Rutgers nursing school and a church are adjacent on Bayard Street. Bayard also as legal offices and multifamily uses. They tried to acquire the adjacent church, offering \$1.5 million but they were not interested in selling.

Victor Rodriguez. Architect

This is his first time testifying before a zoning board, but has been licensed since 1994.

Floor Plan:

The building entrance is at the corner next to the nursing school. There is a vestibule and lobby area. A bike area and exercise area are provided. There is a trash room within the building.

The 37 units have a total of 37 bedrooms. All are 1BR units. It is a 5-story building. The height exceeds the 40 ft height limit. The floor-to-floor height is 9 feet, for a total of 45 feet to the roof elevation. A shallower floor to ceiling height would not be appropriate.

A-2 Building Perspective

The height of the adjacent buildings, the nursing school and church, are taller than the proposed building. The side of the building fronts on the school plaza. A pedestrian scale is maintained. Glazing is used on the ground floor to allow the interior of the building to be seen. The plaza facing side is treated as a frontage.

Brick will be used in places to pick up the brick used in the nursing school. There will also be precast. The building has also been set back from the property line and has a recessed entry. The vertical gestures in the design break up the mass of the building.

There will be aesthetic lighting at the entrance. There will also be wall-mounted lighting on the sides.

Building Elevations:

The larger heights of the two adjacent buildings are shown on the bottom panel of the drawing.

Large windows are used along Bayard Street to provide transparency. This glazing is carried around to the plaza side. The signage is a façade sign with raised letters.

Ms. Chester asked about unit square footage. Rodriguez said they were about 575 sf. She asked about the anticipated rents. Mr. Daurio said they would be market priced. Ms. Chester asked what the target market is, e.g., students? Mr. Daurio said students were possible but also commuters.

Ms. McElligott asked if there was a double loaded corridor, Mr. Daurio said yes. He added that there would be private trash pick up that would happen on Bayard Street. Trash will be rolled out to the truck. They anticipate 3x per week.

Keith Cahill, Eng.

It is a simple civil engineering project as the building takes up most of the site. Stormwater will be collected on the roof and discharged to the street as it does today. The existing basement will be eliminated.

The proposed building is setback more than the current building. The main access is in the southwest corner on Bayard. There is also an exit on the northwest corner.

Trash is handled internally. All utilities connect on Bayard Street. There is no parking on-site but they have a letter allowing parking at the nearby NBPA Wellness deck.

Mr. Cox asked if the alleyway next to the church would be gated. Mr. Cahill said yes.

Karl Pehnke, Traffic Eng.

He conducted a traffic assessment. The RSIS parking standards apply to the project, with a requirement of 67 spaces. The applicant has a letter from NBPA to provide up to 70 spaces at the Wellness deck but it is unlikely to require this many spaces.

The project is replacing 36 boarding units with 37 units so the existing project probably generated some cars but with no agreement with NBPA. During peak hours about 10-12 trips would be expected and would be focused on the Wellness deck. This level of traffic would not impact the level of service at the intersection.

Mr. Cox asked how often the Wellness deck is at capacity. Mr. Daurio stated that he discussed this with Mitch Karon at NBPA. NBPA said the spaces were available and provided a letter.

Ms. Chester asked if the lobby would be manned by a person for deliveries. Mr. Daurio said it would not be manned. There would be a package "concierge" that automates the delivery of packages.

Christine Cofone, Planner

The site is in the C-4 zone and is a conditional use in the zone. It also exceeds the density limit. The D3 conditional use variance only requires a showing that the site is appropriate for the project. The zoning ordinance requires a 20,000 sf site but there has already been testimony about the inability to acquire adjacent property. They have also addressed the parking issue.

The C-4 zone intent is to preserve the character of the downtown business district. The site doesn't have commercial neighbors, it is appropriate to do residential at this location. The master plan calls for new high-density housing in the downtown. The housing element also supports this. This also meets criteria g of the MLUL. The site is near transit. It supports criteria l for visual aesthetics. The site is appropriate for the proposed use. It is context sensitive design. Criteria m is also met as it is an efficient use of the land.

The negative criteria are met as the problematic existing use is being replaced with a use that meets the intent of the zoning ordinance. There is no substantial detriment. The parking issue is resolved with the off-site parking and the site can handle the density. There is no degradation of the intersections in the area.

Public:

Phil Burrow

He asked when JCM acquired the property. Mr. Daurio said he did not know the date. It may have been about 6 years ago. Mr. Burrow asked about the purchase price and related it to what he felt was a low offer for the adjacent church property.

He also expressed concerns about construction methods and staging. Mr. Daurio said he has talked to neighbors about getting access through their properties. They do not intend to use a crane. Mr. Rubin said the questions were not germane.

Mr. Burrow asked about the NBPA arrangement and resident permit parking. Mr. Daurio volunteered that the existing 9 parking permits would be waived at the time a building permit was issued.

Mr. Daurio said there would be a live-in superintendent.

Mr. Burrow asked about the total height. Mr. Daurio said the top of the parapet wall was 52 ft but this was not part of the height calculation.

Mr. Daurio said the construction timetable would be about one year.

Mr. Burrow asked about security. Mr. Daurio said it would have interior and exterior video.

Mr. Burrow said he was a long-time owner across the street. He said Mr. Shah was a disaster running the boarding house. He said it became a worse property after JCM purchased it. He said they were not helpful in trying to correct the problems. He wants to see improvement on the property, but he is concerned about how they've managed the boarding house. He says DCA considered it one of the worse boarding houses in Middlesex County. He wants their feet held to the fire.

Bill Popko,

He said the property tax records say it is a 31 unit building. Daurio said it was licensed as 36 units. Popko asked about the height and whether it was C or D variance. Mr. Siegle said it was a D variance. Popko asked if they tried to acquire the properties to the rear. Mr. Daurio said yes, but they would not sell. He asked about roof top use. Daurio said there would be no tenant use on the roof. He then asked about bike capacity. Rodriguez said about 12-14 bikes.

Mr. Popko asked about loading area. Mr. Daurio said there was already a loading area in front of the building. He also asked if one elevator was sufficient. Mr. Rodriguez said he felt it was sufficient.

He asked about the allowable density. Cofone said 8 units would be allowed by the lot size and about 230/acre allowed. She said there were 36 rooms now.

Charlie Kratovil

Mr. Kratovil asked if there would be a tax exemption. Mr. Rubin said they were not tax exempt.

He asked about the logistics of getting to Wellness deck and where the closest entrance could be accessed. Mr. Daurio said there is a stair case at Paterson and Joyce Kilmer.

Mr. Kratovil said the transit access for the site was a positive. He supports the project.

Board Discussion:

Ms. Chester said the project would be a big improvements. Mr. Cox agreed.

The issue of ownership disclosure was discussed. Mr. Rubin said the property is owned by an LLC that is solely-owned by Matthew Florio. He will provide a certification of this.

Mr. Aithal said the board can vote, but cannot adopt a resolution until the certification is submitted.

**Motion to approve with the conditions cited made by: McElligott
 Seconded by: Adorno**

| Yes | No | |
|-----|----|---------------------------|
| | | Nancy Coppola, Chair |
| X | | John Cox, Vice Chair |
| X | | Margaret Chester |
| X | | Sue McElligott |
| | | John Zimmerman |
| | | |
| X | | Ivan Adorno |
| | | Doug Sheehan (Alt #1) |
| X | | Charlotte McNair (Alt #2) |
| X | | Evelyn Azcona (Alt #3) |

C. JOSEPH CHEDID, Z-2018-05, Variance application for the conversion of the ground floor of an existing two-family dwelling into a retail/commercial space located at 158 Louis Street, Block 60, Lot 32, Zoning District: C-1

Mr. Patterson announced at prior to the Mercado hearing that the applicant had requested to postpone the hearing for this application at tonight’s meeting as it was unlikely to be reached on the agenda due to the expected length of the hearings for the other two applications on the agenda.

Mr. Patterson announced to the public that the hearing was being rescheduled for the May 21 meeting at 7:30 pm in Council Chambers at 78 Bayard Street. No additional notice would be required.

VI. OTHER MATTERS OF INTEREST TO THE PUBLIC

VII. ADJOURNMENT