

RESOLUTION OF THE PLANNING BOARD
TOWNSHIP OF SOUTH ORANGE VILLAGE

Decided: October 5, 2016
Memorialized: November 7, 2016

**TERESA CHANG
MINOR SITE PLAN APPROVAL
WITH "C" VARIANCES
120 PROSPECT STREET
BLOCK 2017, LOT 14
PB APPLICATION #252**

WHEREAS, Teresa Chang ("Applicant") having made application for minor site plan approval with "c" variances to the Township of South Orange Village Planning Board (Application #252) regarding property located at 120 Prospect Street, South Orange, NJ (the "Premises"), and known as Lot 14, Block 2017 on the tax map of the Township of South Orange Village (the "Village"); and

WHEREAS the Board having accepted jurisdiction based upon proof of publication and notices provided in accordance with the Municipal Land Use Law; and

WHEREAS, a public hearing having been conducted on August 1, 2016, September 7, 2016 and October 5, 2016 and the Applicant having appeared by her attorney Riley Horton, Esq., and the Board having heard testimony of the Applicant's witnesses including Carman Tango, Frederick C. Meola, PE, PP and Teresa Chang and the Board having considered the exhibits and expert reports submitted by Applicant and considered the comments and review memos from the Topology dated May 31, 2016 and April 26, 2016 and considered the comments of all members of the public desiring to be heard and deliberated on the merits of the application;

NOW, BE IT RESOLVED AS FOLLOWS:

EVIDENCE SUBMITTED

In summary, the following evidence was submitted in connection with the application and considered by the Board:

1. The Board received the application and the documents submitted therewith, including the following:
 - (i) South Orange Village Planning Board and Zoning Board Application Form filed on April 5, 2015;
 - (ii) Addendum to Planning and Zoning Board Application Form;
 - (iii) Applicant's Statement;

- (iv) Affidavit as to Ownership of Property;
- (v) Certificate of Paid Taxes;
- (vi) Checklist;
- (vii) Survey prepared by Robert L. Bowser dated December 13, 1985;
- (viii) Survey prepared by William DiMarzo & Son Associate, Inc. dated June 2, 2014;
- (ix) Color Photographs of new retaining wall (7);
- (x) Color Photographs of new shed (4);
- (xi) Color Photographs of previous shed (1);
- (xii) Site Plan Drawings prepared by F.C. Meola, LLC dated November 5, 2015 (2 sheets);

2. In addition, after the original submission, the Board received:

- (i) Letter from Riley Horton, Esq., dated May 26, 2016 with the following enclosures:
 - a. Deed and Affidavit of Title;
 - b. Color Photographs of Property (4);
 - c. Existing Critical Environmental Areas Engineer Certification;
 - d. Site Plan Drawings by F.C. Meola, LLC last revised May 18, 2016 (2 sheets);
 - e. Structure Locations and Uses Applicant's Certification;
- (ii) Wall Calculations from F.C. Meola, LLC dated September 20, 2016;
- (iii) Revised Site Plan Drawings by F.C. Meola, LLC last revised September 19, 2016 (4 sheets);

3. The Board accepted into evidence the following Exhibits: None.

4. Riley Horton, Esq., appeared on behalf of the Applicant.

5. Carman Tango was sworn and introduced as the contractor who had performed work at the subject premises. He testified that he had removed old Belgian block and put in new Belgian block on the left side of the parking area. He also took down a concrete wall and replaced it with interlocking keystone blocks and the new wall was 8 ft. deeper towards the rear property line. He stated that the wall he built was approximately 20 ft. long and 5 ft. tall and was not intended to add additional parking just to square off the parking area. He stated that he put stone and geogrid behind the wall. He also noted that it would have been possible to slope the rear yard area and install a wall which was less than 4 ft. tall which would not have needed engineering approval.

Board Engineer and South Orange Zoning Official Sal Renda advised the Board that in his opinion even if the wall did not exceed 4 ft. Applicant would still have needed the site plan approval.

6. When the hearing resumed on September 7, 2016, Mr. Horton noted that the Applicant was seeking minor and final site plan approval with variances for a retaining wall and shed which had already been installed on the property.

7. Frederick C. Meola PE, PP was sworn and qualified as an expert in engineering and planning. Mr. Meola testified that his firm had prepared a topographical survey and also the site plan drawings which were submitted. He described the site as being lower in grade on the Prospect Street side and climbing in grade towards the rear of the property. He notes that there was no existing handicapped space and one was needed since the subject premises included office spaces. He noted that the Applicant had viewed the site plan to find the best location for the proposed handicapped parking spot and stated that it had been placed as shown on the plans because it was in an area that had less than 2 percent grade and was also the closest available area to the door entranceway as required by law. He described the parking arrangement as 1 handicapped space in the front near Prospect Street and 4 angled parking spaces behind it with 2 more parking spaces at the rear of the driveway. He noted that the building had been used as it is currently without any specified or striped parking. He noted that Applicant is proposing to pave and stripe the lot thereby improving existing conditions. He noted that the office space is approximately 2,600 sq. ft. It was noted by Mr. Renda that the parking calculations could not be fully calculated without more specific information regarding the use and size of all of the spaces within the structure.

Turning to the retaining wall, Mr. Meola stated that it is a block, stacked segmented wall with blocks which are 8 in by 16 in and 12 in deep. He stated that the southeast portion is the highest part at approximately 5 ft. tall. He testified that he did not have the manufacture specifications with regard to the requirements for safe construction, although he had requested same. He further noted that a railing would be necessary on the steps which had been built on the left rear side of the property.

Regarding the shed, he stated that topography comes into play in relocating the shed. He noted that the shed had been placed in an area of the property which was relatively flat in order to allow for easy access.

8. Board Engineer Renda asked if Applicant had looked into potentially circulating the driveway so that traffic would enter from the Prospect Street and go behind the building and exit onto Kilburn Place. Mr. Meola revealed that it would have a more severe impact upon the residential neighbors behind the property and would also eliminate the outdoor backyard which is used by the residents. Further questions and discussions between the Board and the witness

about how the site plan worked, specifically regarding the chain link fence on the left side property line, the width of the drive aisle, the specifications regarding the retaining wall and the room sizes, resulted in Applicant asking to carry the application to respond to these concerns.

9. When the hearing resumed on October 5, 2016, Mr. Meola was recalled and reviewed the revised site plans last revised September 19, 2016. He noted that the 4 parking spaces had been reconfigured so that they were now at 90 degree angles to the wall which would allow for 18 to 19 ft. backup area so that cars could more easily turnaround onsite and exit onto Prospect Street facing frontwards. Information was provided regarding the space and uses on site which confirmed that Applicant required a parking variance (12 spaces required, 7 spaces proposed). He noted that the shed at the rear of the property which was installed before the application had been placed in its location in order to provide a flatter area. He noted that the shed was used by Applicant's husband in his business and contained shelves and molds for prosthetic limbs. Mr. Meola further testified that Applicant had again looked at installing a driveway out to Kilburn Place and concluded that it would require a very high retaining wall. Mr. Meola stated that he had, as the Board requested, prepared calculations for the wall which had been constructed prior to the application and they were set forth in his report dated September 20, 2016. Mr. Meola agreed that the wall would need to be reinforced since it was not constructed in accordance with required specifications. Mr. Meola confirmed that the fence on the left side of the driveway was on the property line or within inches of it so that it could not be moved to create a wider drive aisle.

10. Teresa Chang was sworn and testified that she will comply with the requirements of the Board to make this site conform as presented on the plans and in the hearing.

11. There was no public comment for or against the application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. The premises are located in the RC-1 Zone.

13. As noted in the Memorandum from Topology dated May 31, 2016, this site is occupied by a three-story building housing a residence and medical offices located at the corner of Prospect Street and Kilburn Place.

14. There is a driveway/parking lot on the north side of the property allowing access from Prospect Street. A concrete path connects the front of the office building to the Prospect Street sidewalk. The surrounding areas composed of 2 to 3 story frame structures used as a residence and professional offices. The subject premises has an existing three-bedroom apartment on the second floor.

15. Applicant has already installed some improvements without permits and is proposing additional changes. The proposed work includes the following:

- (i) Installation of a new shed (already constructed);
- (ii) Construction of a new retaining wall (already constructed);
- (iii) Reconfiguration of existing parking areas by restriping the parking spaces and creating 2 additional parking spaces at the rear of the driveway;
- (iv) Construction of a handicapped parking space;
- (v) Installation of parking lot signage;
- (vi) Installation of a concrete walkway.

16. The Board expressed concerns throughout the hearing with respect to the manner in which vehicles would exit the site. The proposed changes to the parking area are meant to allow for onsite traffic to exit onto Prospect Street facing forward in order to avoid vehicles backing out onto that street. There was also concern regarding the structural integrity of the retaining wall which had been built without permits. Finally there was concern with respect to the distance between the shed which had been installed in the rear property line as it requires a rear yard setback (25 ft. required, 22.7 ft. prior to construction, 9.1 ft. existing/proposed). In addition Applicant finally identified the square footage and uses in the building to determine the number of parking spaces needed.

17. The Board has considered the variances required for rear yard setback, retaining wall and parking and determined that they can be granted under Municipal Land Use Law §70(c). The Board notes that Applicant has filed this application as a result of having constructed improvements on the site without obtaining prior approvals. The Board notes that the proposed improvements as revised throughout the hearing would provide a benefit since they would provide for a structurally sound retaining wall, designated handicapped parking, a more functional and safer parking area and better egress from the site. The shed installed by Applicant at the rear intrudes into the rear yard setback but is an accessory structure to the office uses in the principal building, is in a location which provides for easy access to the office which it serves, and does not overly impact light and air despite its nearness to the rear property line. In addition, Applicant has agreed to make other improvements to the site which allow for an upgrade, including striped parking spaces and a handicapped space and a new sidewalk, so that the benefits of the plan exceed the detriments without substantial detriment to the neighborhood nor impairment to the zone plan or ordinances.

18. In sum, the Applicant has shown that the proposed plan offers a better alternative to the zoning scheme, has proven both the positive and negative criteria and has therefore qualified for the relief sought.

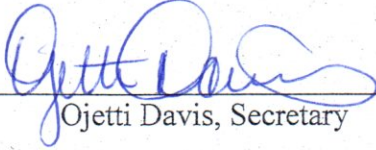
THE DECISION AND CONDITIONS

WHEREAS, the Board, having reviewed the application for minor site plan approval with variances, and having considered the impact of the proposed application on the Village and its residents and the surrounding property owners, and having considered whether the proposal complies with and furthers the goals of the master plan and zoning ordinances of the Township of South Orange Village and the Municipal Land Use Law; and upon the imposition of specific conditions to be fulfilled, hereby, concludes that good cause has been shown to approve the application of Applicant for preliminary and final site plan approval with variance relief enumerated herein.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of South Orange Village that the application for preliminary and final site plan with variances and design waivers as set forth in the plans, reports, representations, testimony, stipulations and Exhibits offered by the Applicant is hereby granted with the following conditions:

1. The Applicant shall comply with all applicable Township, County and State laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local and state approvals and/or permits.
2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
3. The Applicant shall pay all outstanding taxes, application fees, technical review fees and inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within ten (10) days of notification.
4. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
5. All conditions of approval shall be shown on the plans.
6. Applicant shall take down and reconstruct the retaining wall so that it meets manufacturer's specifications and submit an engineer's certification that it complies with same, which shall be subject to review and approval of the Board Engineer.
7. Applicant will paint the shed.
8. Applicant to add individual room sizes on the plans.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the 7th day of November, 2016.


Ojetti Davis, Secretary

Vote on the Action Taken by the Board

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
ALLEN		X	X			
CHAMBERS						
COLLUM						
COLTON-MAX (Ch.)			X			
HARRIS (1st Alt.)			X			
LERMAN						
LOEHNER						
MILLER (V. Ch.)	X		X			
ROSNER			X			
WILSON						

Vote on the Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
ALLEN			X			
CHAMBERS						
COLLUM						
COLTON-MAX (Ch.)			X			
HARRIS (1st Alt.)		X	X			
LERMAN						
LOEHNER						
MILLER (V. Ch.)	X		X			
ROSNER			X			
WILSON						