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MONTCLAIR STABLES LLC

Proposal

Montclair Stables, LLC (“Applicant”) owns the property identified as Block 152.02, Lots 176, 178 & 186 (a/k/a 12-22 Woodland Avenue). The site has been used for many years as a private horse training facility with stables, riding arenas and associated structures. The property sits astride Woodland Avenue and Nicholas Avenue. However, it should be noted that Nicholas Avenue terminates just prior to the property in question and becomes in effect a driveway used to access the “rear” of the site. In practice, Nicholas Avenue is a paper street at that location.

Upon Applicant’s acquisition of the property, it intended to maintain the current use (private horse riding and training facility). However, some updates to the property have been determined to be necessary. First, the outside riding arena is not large enough and not prepared properly. As part of this application, the outside riding arena (situated towards the westerly side of the property) will be refurbished with new sand and fencing for safer riding/training conditions. The outside riding arena will essentially double in size. As the outside riding arena has no impervious coverage, the arena’s size is no different than a large, enclosed lawn or yard. Other than fencing around the arena, there are no permanent structures being moved, renovated, or constructed.

As a direct result of the increase in the riding arena size and configuration, a new parking area is needed. This will be situated along Woodland Avenue on the northerly side. There will be 11 parking stalls (2 ADA compliant).

There are several bulk variances currently existing on the site. These are all unaffected by the current application and will continue with two exceptions. An abandoned residence and gazebo were recently demolished. This served to decrease the deviations from the R-1 bulk variances for lot and building coverages. There are also three new bulk variances for the placement of a solid fence at the northeast corner of the property, number of parking spaces, and number of loading spaces.

There is no ordinance which identifies the required number of spaces for this type of use. However, a fair approximation can be achieved once it is understood that the site will not be accessible to the public. This is a private training facility. It is anticipated that the persons on site other than 1-2 employees of the stables will be limited to the owner/rider and a trainer for each horse in the arena or in the adjacent paddocks. With allowance for only 3-4 horses, the 11 spaces are more than sufficient. Vehicles pulling horse trailers will access the site from Nicholas Avenue and will park in the areas proximate to the existing stable buildings. There is not a need to consider their effect for loading spaces.

Reasons For Relief

Use Variance

The property is in the R-1 (Lot 186) and R-5 (Lots 176 & 178) zones. Neither of these zones list a horse riding and training facility as a permitted use, and neither identify it as an expressly prohibited use. The Applicant is not seeking to change the use of the site which would require a D(1) variance, indeed, this Applicant seeks to continue with the current use with certain enhancements. Those enhancements will not only serve to increase the quality of the property for its intended use but also be a benefit to the surrounding parcels. As the proposed larger outside riding arena and new parking lot are dissimilar from current conditions, the Applicant will need to seek relief from the Board under a D(2) variance.

The Board of Adjustment has the power pursuant to N.J.S.A. 40:55D-70d(2) to permit expansion for lawfully created pre-existing nonconforming uses “in particular cases and for special reasons”. Our courts have held that the promotion of the general welfare is the zoning purpose that most clearly amplifies the meaning of “special reasons”. Burbridge v. Mine Hill Board of Adjustment, 117 N.J. 376 (1990). This is derived not from the use itself but from the development of a site in the community that is particularly suited for the very enterprise proposed. Id. Special reasons may also be found in the fact that the variance would minimize the nonconformity and make it more acceptable in the setting. Id. Also aesthetic improvement alone can be the basis for special reasons. Id. The Board may not exercise its power to grant a D(2) variance otherwise warranted, however, unless the so-called negative criteria has been satisfied. The variance may be granted only if it is not a substantial detriment to the public good and does not substantially impair the intent and purpose of the zone plan and ordinance.

In the current application, it is important to note that no structure is being expanded. The Applicant is not intensifying the use by a building addition. Instead, the Applicant is upgrading a dilapidated outside riding area. In the first instance, this weighs in the favor of the Applicant. The facility is well-suited to the neighboring residential area and this proposed enhancement ensures its continuation into the future. The area while it could be developed as permitted into multiple single family homes, instead is continuing in a less intensive pastoral use. In total, the use under the proposal meets the special reasons criteria. Additionally, the negative criteria is satisfied. The refurbishment to an outside riding arena does not implicate a detriment to the public good. The outside riding arena already exists and has done so for decades. It is not a noxious, hazardous or otherwise odious activity. Indeed, it serves as a distinction in the area making the neighborhood a more desirable location. This also demonstrates that the zone plan is not substantially impaired. This continued use with its new riding area, while not permitted, is not prohibited in either zone. Additionally, the use can be seen as compatible with the residential district it abuts.

Bulk Variance

The Applicant in its refurbishment efforts also must seek the Board’s approval to continue certain pre-existing bulk variances, reduce other pre-existing bulk variances but ones which remain nonconforming and new variances which are necessary as part of Applicant’s beautification goals.

The variances are listed below:

Pre-Existing Variances

§25-7.1

R-1 Zone

Minimum Front Yard Setback – 40 ft. required

Barn to Woodland Avenue	29.32 ft. <i>(existing)</i>
Barn to Nicholas Avenue	41.38 ft. <i>(existing)</i>
Arena to Woodland Avenue	29.33 ft. <i>(existing)</i>
Arena to Nicholas Avenue	9.93 ft. <i>(existing)</i>

Maximum Building Coverage - 20% maximum allowable

Currently 25.38%, Proposed 24.73% *(lessen prior nonconformity)*

Maximum Lot Coverage – 30% maximum allowable

Currently 40.28%, Proposed 36.00% *(lessen prior nonconformity)*

New Variances

Fence, §25-8.4b – opaque fence, 6 foot high in front yard at northeast corner

Number of Parking Spaces – no applicable ordinance on the number of spaces or size required for this type of use (Private Riding and Training Facility)

Proposed 9 full sized stalls and 2 ADA accessible stalls

Number of Loading Spaces – no applicable ordinance on the number of spaces or size required for this type of use (Private Riding and Training Facility)

All deliveries and removals shall be via the Nicholas Avenue Driveway

The Board has the power to grant c(2) or so-called “benefits v. burdens” variances from the zoning ordinance regulations where the purposes of the MLUL would be advanced by a deviation from the requirements and the benefits of the deviation substantially outweigh any detriment. The negative criteria must also be satisfied. The variance may be granted only if it is not a substantial detriment to the public good and does not substantially impair the intent and purpose of the zone plan and ordinance.

First, the pre-existing variances which are unchanged as to the minimum front yard setbacks are conditions which are not part of this application. This Applicant is not making any structural changes. These are truly for informational purposes.

Second, two significant pre-existing bulk nonconformities are being brought closer to standard. Building and lot coverage are reduced by virtue of the demolition of the house and gazebo. This Applicant seeks not to replace those structures but instead increase the size of a hardly noticeable outside riding arena.

Third, new variances are necessary. The fence in the front serves to keep horses from fleeing the site. This prevents not only injury to the horse but also to persons and animals residing in the neighborhood as well as to avoid traffic accidents and waste of local law enforcement services. The parking lot is designed to allow sufficient spaces for the anticipated number persons on site at any given time. This is not an open facility. There will be a limited amount of employees, trainers and owners at any given time. There is no ordinance to provide guidance as to the appropriate number of spaces. This Applicant believes that the parking spaces provided will accommodate its need. The same can be said for loading spaces which are unnecessary as trucks and trailers will enter the site from Nicholas Avenue and enter the barn area. This is akin to a farm use where equipment and vehicles are not constrained to an asphalt paved area.

This demonstrates that the overall project with its deviations does advance the purposes of the MLUL under 40:55D-2 by: (c) providing adequate light, air and open space, (e) promoting establishment of proper population densities, (g) providing sufficient space for a variety of agricultural and residential uses, (i) promoting a desirable visual environment, and (j) promoting the conservation of historic sites and open spaces. The deviations for the fence and parking lot substantially outweigh any potential detriments. There is clearly no substantial detriment to the public good and in fact this project is the hallmark of the betterment of the public good. Lastly, the intent and purpose of the zone is not impaired but rather it is enhanced by the continuation of a use which uplifts the neighboring areas.