

CALL TO ORDER:

The meeting was called to order at 7:30 p.m. at Borough Hall by Chairwoman Christina Hembree with the reading of the Open Public Meetings Act.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Sanjeev Dhawan	Absent
Emilia Fendian	Present
Robert Hayes	Present (arrived at 7:35pm)
Michael Kaufman, Alternate 2	Present
Robin Malley	Present
Gary Newman	Present (arrived at 7:40pm)
John Spirig	Present
Hasmig Yetemian	Absent
Christina Hembree, Chairwoman	Present

S. Robert Princiotta, Esq.	Present
Evan Jacobs, Engineer	Present
Richard Preiss, Planner	Present
Meg Smith, Secretary	Present

APPROVAL OF MINUTES AND TRANSCRIPT:

The minutes for February 26, 2019 were approved on a motion from Ms. Malley, seconded by Mr. Spirig, and carried by all.

The minutes for March 12, 2019 were approved on a motion from Mr. Spirig, seconded by Ms. Malley, and carried by all.

The minutes for March 26, 2019 were approved on a motion from Ms. Malley, seconded by Ms. Fendian, and carried by all.

NEW APPLICATIONS- Continued

Dr. Mahmood Karimi

50 Kinderkamack Road

Block: 2902 Lot: 32

Appeal for Certificate of Non-Conformity for medical use; or Use variance to permit medical use in a residential zone.

Mr. Newman stated that he had not listened to the recording of the previous meeting and would recuse himself from this application.

Mr. Sinisi, attorney for the applicant, explained that Dr. Karimi is requesting a Certificate of Non-Conformity or in the alternative, a use variance for medical use. Mr. Sinisi stated that the applicant has provided an architectural floor plan and a parking exhibit to detail current conditions on the property.

Mr. Preiss has submitted a follow up to his initial review letter. In this updated review letter, dated 4/17/19, Mr. Preiss detailed options for Board consideration to include:

- 1) the granting of a d(2) variance to allow expansion of the non-conforming use
- 2) the granting of a d(1) variance to allow an office use only and remove the residency requirement
- 3) the granting of a certificate of non-conformity
- 4) the granting of a d(2) variance with conditions to adapt to current circumstances

Mr. Preiss advised that the Board must make a decision or the applicant will be left in a "legal no man's land". Mr. Preiss stated that an expansion of the parking area most likely occurred during Dr. Fortuna's ownership and that there was not much to be gained by requiring a reduction back to the previous coverage.

Mr. Spirig questioned that Ms. Bogart suggested that the property could be converted to total medical use.

Mr. Preiss stated that the applicant would need a d(1) variance to make this an all medical use.

Ms. Malley questioned Mr. Preiss regarding statements about renting out the office space or the residence.

Mr. Preiss stated that with the granting of a d(2) variance the board could consider adding a condition to change the residency requirement and allow renting either the home or the office part of the property.

Ms. Malley questioned the restriction for equipment other than customary in the home and Mr. Preiss and Mr. Sinisi explained that equipment for a doctor's or dentist's office would be allowed or could be specified as a condition under a home office situation.

Mr. Hayes questioned granting conditions and confirmed that the variance and any conditions imposed or granted will run with the land and successors will need to abide by them as well as current owner.

Mr. Sinisi requested that condition for residency be detailed to say at least a part time resident.

Mr. Princiotta asked about the parking enlargement. Mr. Preiss stated that a very narrow view would hold that any enlargement constituted an expansion.

Mr. Sinisi suggested that an approval could have the requirement of only 14 spaces. Mr. Preiss agreed that 14 designated spaces in the front yard would be acceptable.

The meeting was opened to the public with a motion by Mr. Hayes, seconded by Ms. Fendian.

There were no members of the public requesting to be heard on this application.

A motion was made by Ms. Malley to close the meeting to the public and it was seconded by Mr. Hayes.

A list of conditions for consideration of a Certificate of Non-Conformity or a D Variance included:

- 1) No individual not a resident of the premises shall conduct the profession therein.

- 2) That only a single (one) profession or practitioner shall be permitted.
- 3) That in addition to the single residential professional or practitioner only 3 persons not a resident of the premises shall be permitted to be employed by the home professional.
- 4) That only 1,051 square feet total first floor area of the residence shall be occupied by the profession and shall not be expanded.
- 5) No display, no stock and trading or commodities shall be sold upon the premises.
- 6) No mechanical equipment not customary in the home office shall be used.
- 7) No sign other than a nameplate shall be displayed and no larger than one foot by two feet.

Mr. Spirig stated that doing nothing would leave the applicant in no man's land and he believes that the board should consider granting a d(2) variance with conditions. Mr. Spirig would like to add 14 parking spaces as part of the conditions of approval.

Ms. Fendian agreed with Mr. Spirig and stated that Mr. Preiss' report and testimony made things very clear.

Ms. Malley also agreed with granting a d(2) variance with conditions but was ok with rental of part of the property.

Mr. Hayes agreed with granting a d(2) variance with conditions but wanted condition #1 to state that no resident not at least a part-time resident shall conduct the profession therein.

Mr. Kaufman agreed with Mr. Hayes that a d(2) variance with conditions and specifically requiring at least a part-time residency.

The board discussed the definition of what a part-time residency would require and questioned enforcement of such a requirement.

A motion was made by Mr. Spirig to grant a d(2) variance with the seven (7) conditions proposed above and the additional condition for a maximum of 14 designated parking spaces in the front yard. The residency requirement was not changed to part time designation. Ms. Malley seconded the motion. All board members present were in favor of the motion.

188 Broadway LP

188 Broadway

Block: 2701 Lot:3

Use variance to add 60 apartments and to permit multi-family residential use, variance to raise building to 3 stories in height, and a variance for deficient interior parking lot landscaping.

Applicant to provide a transcript of this application.

The meeting was adjourned on a motion from Mr. Hayes, seconded by Mr. Newman, and carried by all.

Respectfully submitted,

Meg Smith