This report reviews an application filed with the Board of Adjustment for a site plan, use variances, a parking variance, and Code waivers for conversion of a three-family dwelling to a five-family dwelling. This report reviews the following submission items:

- Application for Development, received February 18, 2022
- Property survey prepared by JMH Associates, dated September 22, 2003, received February 18, 2022
- 2-page plan set prepared by Sionas Architecture, dated May 31, 2023, received June 1, 2023

**Site Description**

The site is a flag shaped interior lot located on the north side of Walnut Street between Park Street and Midland Avenue. The lot is 50.69 feet wide and ranges in depth from 109.71 feet to 168.50 feet. The lot has a total area of 6,105.11 square feet. The subject site is improved with a 2 ½-story five-family dwelling with a two-story open front porch, and a driveway along the western property edge leading to a parking area to the rear. Adjacent uses include a multifamily building to the west, a four-family dwelling to the east, the parking lot of a medical office building to the north, and parking areas for an office building and funeral home across Walnut Street to the south.

**Background**

In 1956, the Board of Adjustment approved the conversion of this structure from a two-family dwelling to a three-family dwelling with conditions that parking for three cars be provided to the rear. A copy of this resolution has been included with application materials. There have been no approvals for the conversion of this three-family dwelling to a five-family dwelling, which is the current use of the subject property.

This application was filed in February 2022 following the issuance of a violation from the Department of Code Enforcement for the two illegal dwelling units, however plans were not submitted until January 2023.
Project Description
The applicant is seeking approval for the use of this property as a five-family dwelling. Proposed physical changes to the property include the following:
• Parking striping will be provided for two rows of two 8’ by 19’ tandem parking spaces where vehicles are currently parked. Asphalt will be removed along the west edge of this parking area and on the west side of the existing shed structure to be planted with grass. A new concrete walkway will be constructed from this parking area to the shed.

• A new roofed trash enclosure will replace the existing fenced enclosure. A new concrete pad will be installed here. Asphalt will be removed adjacent to the enclosure and this area will be planted with three gem box inkberry shrubs.

• Striping will be provided for two 9’ by 19’ parking spaces in the northeast corner of the site where is currently parking for two cars. Additional pavement will be used to accommodate full-size parking spaces and a 24-foot drive aisle with a 3.5-foot setback from the east property line. One EV charging station will be installed in this setback, as will 6 mountain laurel shrubs. An existing concrete walkway in this location will be removed and resident seating and grilling items will be moved to the adjacent lawn area.

• No new stormwater facilities are proposed. There will be a net reduction of impervious coverage of 36.8 SF.

Review by the Development Review Committee and Board Engineer
In accordance with Montclair Code §202-10.2, this site plan application was reviewed by the Development Review Committee on March 2, 2023. A memo summarizing their comments and the Board Engineer’s report are provided with application materials. Note that modifications were made to the plans following the DRC review.

Zoning
The subject site is in the OR-3 Garden Apartment and Office Building Zone. The following variances are required:

• Use variances in accordance with N.J.S.A. 40:55D-70d(3) and N.J.S.A. 40:55D-70d(5) are required to allow a five-family dwelling in the OR-3 Zone District. Conversion of an existing principal residential building to a multifamily dwelling providing more than two dwellings is a permitted conditional use per Montclair Code §347-54.B in the OR-3 Zone District, however, a conditional use variance is needed because the proposal does not conform to several of the requirements of this section:
  o A variance is needed from Montclair Code §347-54.B(1) to allow dwelling units with areas less than 800 square feet.
  o A variance is needed from Montclair Code §347-54.B(2) to allow the multifamily building to occupy 31.5% of the site where a maximum of 25% is permitted.
  o A variance is needed from Montclair Code §347-54.B(4) to allow the lot to contain less than 15,000 square feet within 150 feet of the street line;
and, pursuant to N.J.S.A. 40:55D-70d(5) to allow a residential density of 34 units per acre where a maximum of 24 units per acre is permitted.

- A variance is needed from Montclair Code §347-54.B(5) to allow the existing unenclosed fire escape to remain unenclosed.

- A variance is needed from Montclair Code §347-101 to allow 7* parking spaces where 9 are required per New Jersey Residential Site Improvement Standards, Table 4.4.
  - Note that the plans indicate that there is one offsite parking space provided, although this does not count toward the required onsite parking.
  - *Note that per P.L. 2021, c.171, the EV charging station space counts as two parking spaces.

Code waivers are required as follows:

- A waiver is needed from Montclair Code §281-9A to allow tandem parking spaces without direct access from a drive aisle.
- A waiver is needed from Montclair Code §281-9B to allow four parking spaces with a width of 8 feet where 9 feet is required.
- A waiver is needed from Montclair Code §281-9E to allow a parking area to be set back a minimum of 1.5 feet from the property line where 4 feet is required.
- A waiver is needed from Montclair Code §281-9I to allow a driveway that is 8 feet in width at its narrowest point where a minimum of 18 feet is required for a two-way driveway (required where there is only one point of access).

**Planning Considerations**
The applicant has requested a number of submission requirement waivers:

1. Per Montclair Code §202-29.2D(14), grades of building corners and entrances must be shown on the plans.

2. Per Montclair Code §202-29.2D(15) existing grading of the site must be provided on the plans.
3. Per Montclair Code §202-29.2D(18) information on stormwater management facilities must be added to the plans. Note that no stormwater facilities are proposed.

Other considerations:
1. As evidenced by the number of variances and waivers needed for this use to be approved, the site is not suited to the use of this property as a five-family dwelling. The structure should be converted back to its legal use as a three-family dwelling.
2. The applicant should explain in testimony where the one offsite parking space is located and describe how that arrangement is set up with the other property owner.
3. Any chain link fence on the subject property surrounding at the parking area should be replaced with a solid fence.
4. The applicant should explain in testimony how snow removal is handled.
5. A lighting plan should be provided to demonstrate compliance with Montclair Code §281-8.3.
Photos
Photos taken by staff on January 24, 2022.

Figure 4: Subject property viewed from Walnut Street
Figure 5: West side of subject building

Figure 6: East side of subject building
Figure 7: Front yard as viewed from driveway entrance
Figure 8: Driveway as viewed from Walnut Street
Figure 9: East side yard viewed from Walnut Street
Figure 10: East side yard viewed from rear yard
Figure 11: Rear parking area

Figure 12: Refuse enclosure
Figure 13: Rear of subject building