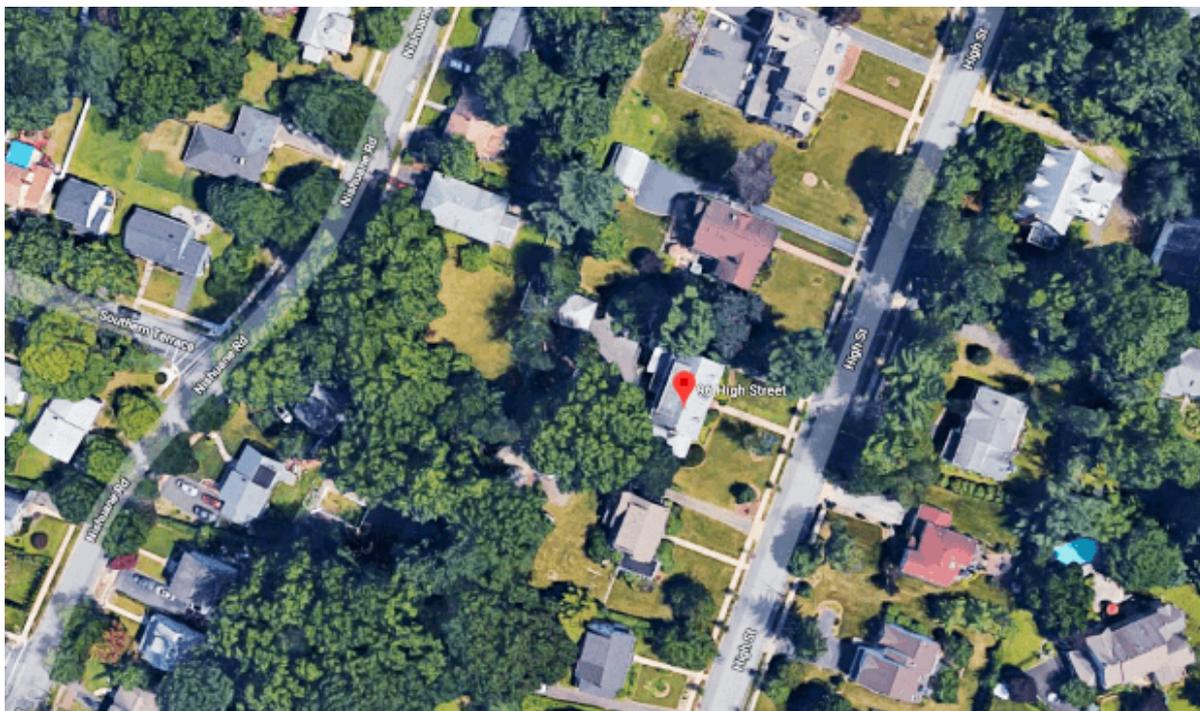


# Planning board turns down developer's plan to turn one lot into three



Overhead shot of the property that will be split into two.

COURTESY PLANNING DEPARTMENT

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A developer seeking to subdivide a lot bounded by High Street and Nishuane Road into three lots will instead divide it into two.

In January, Montclair real estate attorney Melanie Factor of Platinum Interiors LLC bought the house at 96 High St. for \$621,000 with plans to renovate the current home and to divide the 0.72-acre lot into three, building two new homes on parcels facing Nishuane.

The nine-bedroom, 4,752 square foot home, built in 1922, is

currently undergoing a \$300,000 renovation to transform it into a five-bedroom while she sought approval from the planning board to to divide the property. The planning board voted through the application on Oct. 21, but only after much deliberation and a change.



The property on Nishuane Road.  
COURTESY PLANNING DEPARTMENT

The lot is 101 feet wide, with a depth of 309 feet on one side and 333 feet on the other, and is in a single-family residential zone. The lot on High Street will contain the existing house and garage and will be larger than the other two proposed lots, with a width of 100 feet and a depth of 178 feet. The two proposed lots facing Nishuane Road would be smaller, with lot widths of 50 and 52 feet widths and lot depths of 134 and 146 feet.

A depth variance was sought for all three lots, and a width variance was needed for the two proposed lots. Required lot size is 60 feet by 156.27 feet on Nishuane.

“You are creating three non-conforming lots,” board member Carol Willis said about the plan.

The majority of the lots on Nishuane Road near the subject property meet the minimum lot width requirement of 60 feet.

Nine neighboring lots conform to the 60-foot lot width requirement, while five are 50-feet wide or less.

While the High Street lot will reflect the typical lot size there, Factor's attorney Alan Trembulak described the Nishuane portion of the property as "unusually large" for that block. He said the size of the lots created by the subdivision would be consistent with neighboring properties along Nishuane Road.

Six Nishuane Road residents, however, spoke against allowing two homes on the lot fronting their street, citing density issues with two structures and the need for green space.

A front-yard depth allowance of 25 feet, and side yards of six and 10 feet would be met, however.

Factor, who has renovated 10 to 12 other Montclair properties, said two modest homes of approximately 2,100 square feet would add to a much-sought-after housing stock in Montclair. Renderings supplied to the board show a two-story, four-bedroom home, 30-by-45-feet in size with an attached garage in the front. The homes would be priced in the low-\$600,000 range.

While a planning board report showed that most of the homes directly surrounding the lot on Nishuane conform to the 60-foot width requirement, planner/consultant Peter Steck's broader survey of the area revealed that 20 are less than 60 feet and 18 are less than 50. He said that High Street and Nishuane Road contained very different zoning widths. Although the width of the High Street was compliant with lot widths there, he argued hardship on behalf of Factor as the lot width of 102 feet on Nishuane is larger than other other lot on Nishuane.

He said that two lots fit the character of the neighborhood, and by allowing only one home could result in a "megamansion" being built, which would be a detriment to the neighborhood.

“Municipalities are fighting those mega houses,” he said.

Issues were also raised over the proposed garages, which would be just shy of required 18 feet needed for a two-car garage. Parking regulations require parking for two cars per home. Making the garages bigger, or allowing for another parking place, could have required a waiver if the homes' layouts couldn't be redesigned.

Factor also presented a tree-removal plan that would include the removal of 20, eight being healthy, the others dead. She said she could replant 20 new trees.

Environmental concerns were also raised by residents, who reminded the board and the owner that the area underwent radium remediation as a Superfund site from the 1980s through the mid-1990s.

The area was originally monitored by the New Jersey Department of Environmental Protection and the U.S. Environmental Protection Agency due to radium waste from a former radium processing plant. A total of 100 acres – including 239 properties in Montclair, West Orange and Glen Ridge – were found to be contaminated, according to a 1995 document titled “EPA Superfund at Work.”

The remediation was completed sometime in the mid 1990s.

Factor said she had a voicemail from the former project manager of the project stating the property was clear of contamination. But she has not tested the soil on Nishuane.

Resident William Scott suggested that planning go beyond a voicemail and get the clearance in writing.



Board member Keith Broderick said he would have a hard time voting for the subdivision of three lots when neighbors were asking that the quality of the neighborhood be maintained. Board chairman John Wynn said that he felt the 100-foot-wide lot harmonized more with the neighborhood than the 50-foot lots proposed.

Trembulak then asked for members to approve splitting the lot in half. Since the developer was asking for less relief, the board was advised by its attorney they could vote on it that night without having to come back.

Factor will have to present to a subcommittee another tree plan, since it is likely that fewer trees will require removal, and a lot-plan diagram which shows the buildings at a defined scale.

## **More subdivisions**

Another subdivision for Upper Mountain Avenue that was scheduled to be heard was pulled from the agenda. The owners of 264 Upper Mountain Ave., a 2.5-acres lot measuring 192 feet wide by 567 feet deep, are proposing dividing it in half. The original home would be kept on Upper Mountain Avenue, while another would be built facing Highland Avenue.

Township officials have been more accepting of subdividing lots in recent years.

Last August the planning board allowed for a subdivision on Washington Avenue allowing for two lots, 50-by-150 in size, where 60 feet was required. The original house was retained on one lot and a new single-family home is being erected on the neighboring lot. There, 68 percent of the properties are below the 60-foot front width requirement; most were 50 feet or less.

In April 2017, the board approved the subdivision of the 2.5-acre Aubrey Lewis estate, allowing BNE Real Estate to demolish the house and then construct eight single-family houses.



The Aubrey Lewis Estate met the wrecking ball in 2017 after residents fought to save it.

Deborah Ann Tripoldi / STAFF

In November 2018, the zoning board approved the subdivision of the First Congregational Church of Montclair. Two new homes are being built on Plymouth Street behind the church by developer Steven Plofker.

Municipal land-use laws require that development “promote and protect existing residential character and form in established neighborhoods.”