

**MINUTES OF THE BOARD OF ADJUSTMENT
MAY 21, 2014**

PRESENT: Chair Harrison, Mr. Burr, Mr. Edwards, Mr. Fleischer, Mr. Susswein, Mr. Reynolds, Mr. Tsai, and Vice Chair Whipple; also, Mr. Sullivan, Esq., Ms. Talley, Secretary, and Mr. Charreun, Assistant Secretary

ABSENT: Ms. Checca and Mr. Kenney

Mr. Charreun called the roll and announced the regular meeting of the Montclair Board of Adjustment. Notice had been given in accordance with the Open Public Meetings Act.

On motion by Mr. Fleischer, seconded by Mr. Edwards, the **Minutes of the April 16, 2014** meeting were adopted as modified, Mr. Burr abstaining.

On motion by Mr. Fleischer, seconded by Mr. Edwards, the following resolution memorializing the Board's decision on the application of **Steve & Jessyca Karl, 88 Undercliff Road** was adopted as modified, Mr. Burr abstaining:

WHEREAS, Steve & Jessyca Karl, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A. 40:55D-70c to construct a mudroom onto the northerly side of the dwelling, on property designated as Lot 1 in Block 102 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, a variance is requested Montclair Code Section 347-45B(2) for a front yard setback of less than 25 feet; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on April 16, 2014, at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the applicant submitted architectural plans, and a property survey dated May 14, 2001; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings:

1. The property is a corner lot at the intersection of Undercliff Road and Ramsay Road and is located in the R-1 One-Family Zone. Ramsay Road borders both the north and west sides of the property. The property contains a single-family dwelling with an attached garage accessed from Ramsay Road on the north side of the property. The lot measures approximately 32,670 s.f. in lot area.

2. The existing dwelling is positioned closely to the northerly Ramsay Road front property line. The dwelling has existing nonconforming front yard setbacks of 10.25 feet, 13.54 feet, and 15.13 feet along different points of the dwelling facing the northerly Ramsay Road front property line, where a minimum setback of 25 feet is required.

3. A mudroom addition is proposed on the northerly side of the dwelling next to the driveway, facing Ramsay Road. The mudroom measures 7.5 feet wide by 8 feet deep. The mudroom would be set back 5 feet 6 inches and 6 feet 4 inches from the northerly Ramsay Road front property line, as measured to the 2 front corners of the mudroom.

4. A majority of the Board determined that the variance requested could be approved. The applicant is utilizing an area of the dwelling where an existing doorway exists, which is near the driveway on Ramsay Road. The position of the existing dwelling on the corner lot limits the ability to fully comply with zoning. The limited size of the addition and the unique characteristics of the property and the neighborhood significantly limit the impact of the addition on the streetscape and nearby properties; and

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the within application is hereby approved; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the applicant, Township Manager, Township Council, Township Clerk, Township Engineer and Construction Code Official.

On motion by Mr. Fleischer, seconded by Mr. Susswein, the following resolution memorializing the Board's decision on the application of **Montclair Kimberley**

Academy Foundation, 40 Upper Mountain Avenue was adopted as modified, Mr. Burr, Mr. Edwards, and Chair Harrison abstaining:

WHEREAS, Montclair Kimberley Academy Foundation (hereinafter "MKA") did make application to the Board of Adjustment of the Township of Montclair for amended site plan approval to permit the installation of posts and netting adjacent to Upper Mountain Avenue on property designated as Lot 2 in Block 405 on the Township Tax Map and located in the R-O Mountainside Zone; and

WHEREAS, the applicant requested a variance pursuant to N.J.S.A. 40:55D-70c to permit posts and netting at a height of 15 feet where a maximum of 6 feet in height is permitted for an open fence pursuant to Montclair Code Section 347-27D.

WHEREAS, the applicant submitted a "layout & material plan", Sheet L-1 dated February 1, 2013 revised through November 12, 2013 prepared by MKW & Associates, LLC; and

WHEREAS, this matter came on to be heard at regular meetings of the Board of Adjustment held on February 19 and April 16, 2014, at which time it was established that notice was properly published and that property owners within 200 feet of the subject property had been properly served with notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings:

1. The subject property contains approximately 2.974 acres with approximately 480 feet of frontage on Upper Mountain Avenue. North and south of the subject property are single family homes. Van Vleck Gardens, a single family residential home and an apartment building are located east of the subject property across Upper Mountain Avenue.

2. MKA operates an independent school with grades from pre-kindergarten through 12th grade on three campuses.

3. By resolution adopted November 3, 1986, the Montclair Planning Board granted MKA conditional use and site plan approval to construct an athletic field at the subject property.

4. By resolution adopted December 19, 2012, the Montclair Zoning Board granted site plan approval and variances to permit the following:

- A. Enlarge the existing athletic field and convert it to synthetic turf primarily for girls field hockey, boys and girls lacrosse practices and competitive games against other schools in those sports.

B. The property will be regarded and retaining walls installed and the existing berm at the southern end of the field will be eliminated and replaced by a paved parking area consisting of 23 spaces including two handicap spaces, curbing, lighting and a gravel area to allow for buses to turn around.

C. Portable bleachers on wheels will be located behind the benches.

D. The existing two story, 3,700 square foot building which is deteriorating and utilized for bathroom facilities and storage will be demolished and replaced with a new 3,810 square foot one story field house containing changing rooms, bathroom facilities and storage.

E. A concrete plaza will be built around the field house, with a concrete sidewalk extending from the field house to the bleacher area.

F. The existing driveway will be relocated 20 feet south from its present location.

G. Substantial plantings including deciduous and evergreen trees shall be added around the perimeter of the site.

5. MKA seeks approval to permit posts and netting 15 feet in height which stretches approximately 360 feet along the easterly edge of the field on the Upper Mountain Avenue side. The poles are located 20 feet on center and placed into ground sleeves. The nylon netting contains openings of one and three-quarter inch. The applicant testified the approximate time periods in which the posts and netting would be utilized would be between the second week of August and mid-November for field hockey and soccer and early March to mid-June for lacrosse.

6. The applicant presented extensive testimony from Todd Smith, MKA Director of Athletics and Paul Edwards, MKA Head Boys Lacrosse Coach, which established the need for the height and installation of the posts and netting to keep the majority of errant balls from leaving the field area adjacent to Upper Mountain Avenue.

7. The applicant presented the testimony of John Williams, Landscape Architect, who stated the Upper Mountain Avenue side of the field contains an iron railing fence as well as eight maple trees planted at a height of 14 feet, 20 feet on center. At the public hearing, MKA agreed to plant an additional seven maple trees of the same size which would result in maple trees planted 20 feet on center. The Board determined the proposed maple trees would substantially shield the view of the posts and netting.

8. Approval of this application results in a clear public safety benefit encouraging appropriate use of land which promotes the public health, safety and general welfare consistent with N.J.S.A. 40:55D-2a.

9. The subject property is included in the Mountain Historic District which is on the National Register of Historic Places and the New Jersey Register of Historic Places. By memorandum dated January 29, 2014, the Montclair Historic Preservation Commission advised that "it has no objection to the proposed amendments to the site plan and favor approval of the fence and netting as proposed."

10. Based upon the Board's particular knowledge of local conditions, the applicant's proposal will not adversely impact the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance.

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment and would not cause substantial detriment to the public good and would not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance pursuant to the requirements of N.J.S.A. 40:55D-70c(2).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Montclair Kimberley Academy Foundation for a variance pursuant to N.J.S.A. 40:55D-70c(2) to permit an open fence consisting of posts and netting at a height of 15 feet where a maximum of 6 feet is allowed is hereby approved subject to the following conditions.

1. No goal posts or other permanent structures shall be installed on the subject property, other than those shown on the site plan.
2. No athletic activities shall be permitted on Saturdays or Sundays except for reasons of scheduling emergencies.
3. Competitive games against other schools shall be limited to lacrosse and field hockey, except for reasons of scheduling emergencies, however, under no circumstances shall competitive football games against other schools be permitted at any time.
4. The applicant shall comply with comments 2 through 14 contained in the report dated September 20, 2012 from W. Thomas Watkinson, P.E., P. P., Board Engineer.
5. No temporary or permanent lighting of the athletic field shall be permitted.
6. A permanent scoreboard shall not be permitted on site.
7. Parking lot lights shall be on timers and turned off two hours after sunset.

8. The applicant shall adhere to the lighting plan marked as Exhibit A-3 (Sheet SL-1 Site Lighting Plan, dated November 14, 2012, prepared by MKW & Associates, LLC) at the public hearing.

9. All retaining walls shall conform to Ordinance standards.

10. Setbacks from the playing field shall be a minimum of 37 feet on the westerly side, 25 feet on the easterly side and 27 feet on the northerly side.

11. No permanent sound amplification system shall be permitted.

12. The applicant shall comply with comments 1 and 2 contained in the report dated December 24, 2013 from W. Thomas Watkinson, P.E., P.P., Board Engineer.

13. The height of the proposed post and netting shall not exceed 15 feet in height.

14. The posts and netting shall be permitted only between March 1 to June 15 and August 10 to Thanksgiving of each year and shall be removed at all other times.

15. As stipulated by the applicant, seven additional maple trees at a minimum height of 14 feet shall be planted to supplement the eight maple trees planted along Upper Mountain Avenue. The location shall be subject to review and approval by the Montclair Planning Department.

16. The applicant shall be responsible for payment of all escrow charges incurred in connection with review of this matter.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the applicant, Township Manager, Township Council and Township Clerk.

Mr. Whipple arrived and there were 7 Board members present. The application of **Sprint Corporation, L.P., 630 Valley Road** was announced. Kevin Jones, Esq., appeared as attorney for the applicant and described the application.

Bossener Charles, P.E., was sworn and stated his qualifications. He described the application and the type of radio frequency coverage provided by the proposed installation that is currently totally lacking. The installation provides coverage for Sprint's Long Term Evolution network, also known as 4G coverage, to provide wireless broadband, high speed internet, and enhanced mobile communications. The new technology allows Sprint to provide this enhanced coverage by using fewer antennas. No questions were offered by the Board or the public.

Dave Collins, P.E. was sworn and stated his qualifications. He reviewed the FCC Compliance Report, by Pinnacle Telecom Group, dated August 19, 2013, submitted with the application. He prepared the report and stated that the findings in the report conclude that the proposed antennas and related equipment would comply with all applicable State and Federal regulations for radiation frequency levels. The Board questioned Mr. Collins. He provided further details describing how the project would also comply with the FCC regulations for exposure as it relates to the rooftop of the building and the interior at the top floor. Chair Harrison called for questions from the public. Ronald Istivan, 315 Claremont Avenue, asked if the equipment causes any interference with radio equipment operated by the Township.

Exhibits marked:

A-1 FCC Compliance Report by Pinnacle Telecom Group, dated August 19, 2013

Christopher Nevill, P.E. was sworn and stated his qualifications. He described the plans to replace and modify wireless telecommunications equipment. The existing antenna installation is located at the rear area of the rooftop, where there is a flat roof area and an elevator bulkhead. Three sectors are identified on the rooftop plan: Alpha, Beta, and Gamma. The Alpha sector is located at the northerly area of the flat roof, where 1 existing Sprint panel antenna exists on a pipe mast attached to the screen wall of the equipment compound. A new panel antenna would be installed where an empty pipe mast exists next to the existing antenna. Two remote radio head units (RRH) would be installed on the inside face of the screen wall. The final configuration depicts the removal of the presently existing Sprint panel antenna, leaving the newly proposed antenna and the RRH units. The Beta sector is located at the easterly side of the elevator bulkhead located to the southwest of the Alpha sector. At present, 1 Sprint panel antenna exists on a pipe mast at the northeasterly corner of the elevator bulkhead. A new panel antenna would be installed where an empty pipe mast exists at the southeasterly corner of the elevator bulkhead. Two RRH units would be installed on the pipe mast along with the new panel antenna. The final configuration depicts the removal of the presently existing Sprint panel antenna, leaving the newly proposed antenna and RRH units. The Gamma sector is located at the westerly side of the elevator bulkhead. At present 1 Sprint panel antenna exists, that is flush-mounted at the southwesterly corner of the elevator bulkhead. A new panel antenna would be installed, also flush-mounted at the northwesterly corner of the elevator bulkhead. Two RRH units would be installed on the pipe mast containing the existing panel antenna at the southwesterly corner of the elevator bulkhead. The final configuration depicts the relocation of the newly proposed Sprint panel antenna from the northwesterly corner of the elevator bulkhead to the southwesterly corner of the bulkhead, leaving the new panel antenna, new RRH units, and new GPS antenna all near the southwesterly corner of the bulkhead. The 3 existing equipment cabinets will be replaced with 3 new equipment cabinets.

The Board questioned Mr. Nevill. He answered several questions about the size and positioning of the equipment. He stated that there are no longer any Nextel antennas on the rooftop. No questions were offered from the public.

David Karlebach, Professional Planner, was sworn and stated his qualifications. The property is located in the NC Neighborhood Commercial Zone, which permits the installation of telecommunications equipment as a conditional use. The application complies with all the conditional use standards contained in the Montclair Township Zoning Ordinance except that the new panel antennas in the Alpha and Beta sectors, the RRH units proposed in the Alpha sector, and any new GPS antennas require a variance since they all exceed the either the height parapet wall or penthouse to which they are attached. Approval of the requested variances advances the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1, since the proposed replacement and modification of antennas encourages appropriate use of land which promotes the general welfare and the overall reduction in the number of antennas provides adequate light, air and open space. Based upon the size and location of the existing building, the proposed roof top location of the site is particularly suited for wireless communication antennas and continues to be an appropriate site for the conditional use notwithstanding the deviations from the conditions imposed by the ordinance. The visual intrusion caused by the height of the proposed antennas is minimal and will not adversely impact adjacent properties and is not inconsistent with the intent and purpose of the zone plan and zoning ordinance. The application does not involve any noise, vibrations, smoke, dust, odors, heat or glare and thus will not cause substantial detriment to the public good and is not inconsistent with the intent and purpose of the zone plan and zoning ordinance.

Exhibits marked:

A-2 through A-4 Photographs and Photo-simulations of the rooftop with and without the proposed wireless telecommunications equipment

The Board questioned Mr. Karlebach. Mr. Karlebach answered several questions about the photographs and simulations provided as exhibits. He also addressed questions regarding the background applications for Sprint at the property. Mr. Jones recalled Mr. Charles. Mr. Charles briefly described the need for the proposed mounting height. After several more questions from the Board regarding the current plan as it compares to the prior approvals, Mr. Jones requested that the application be continued at a subsequent hearing. Chair Harrison announced that the application would continue at the June 18th meeting of the Board and that no further notice would be given. The Board was granted an extension of time.

The Board took a short recess. Chair Harrison left the meeting as he was recused from the next application. Mr. Reynolds arrived at the meeting and there were 7 members present. Vice Chair Whipple announced the continuation of the application of

Montclair Town Center, LLC, 37 North Mountain Avenue and 323 Claremont Avenue. Alan Trembulak, Esq. appeared as attorney for the applicant and described the application. He stated that a revised layout for the parking area has been prepared for the Board to consider.

Exhibit marked:

A-1 Revised sheets SP2A and SP2B by Sionas Architecture, dated 05/06/14

Steven Plofker, managing member of the LLC that owns the property, was recalled. Mr. Plofker briefly reiterated his prior testimony regarding their plans to renovate and expand the Georgian Inn and redesign and construct new driveways and a parking area. He gave a brief explanation of the revised parking area depicted on Exhibit A-1. The Board questioned Mr. Plofker. There were no questions from the public.

Paul Sionas, Architect, was sworn. Mr. Sionas described the plans in detail. The applicant proposes a minor subdivision to move the existing lot line separating lots 19 and 20 so that the Georgian Inn will be on one lot and the carriage house and Kohout house on the second lot. The applicant proposes to expand the hotel use from 15 rooms to 34 rooms. This has been reduced from the previously indicated 35 rooms. The expansion of the Inn will require three additions, including a 2½ story addition over the existing first floor level at the south side of the building; a 2-story addition along the north side of the building; and a 5-story addition along the north side of the building. A total of 35 parking spaces are proposed on the lot to contain the Inn. A new 17-space parking lot would be located in the Claremont Avenue front yard. 16 spaces would be located in a parking lot behind the Inn, and 2 parallel spaces would be located along the driveway on the northerly side of the Inn. An alternative layout of the 17-space parking lot in the Claremont Avenue front yard has been proposed based on the Board's comments at the last meeting, and is depicted on Sheet SP2B marked as Exhibit A-1. The revised parking lot layout would increase the setback from Claremont Avenue and would help to preserve some of the existing trees.

Exhibits marked:

- A-2 Sheet SP2 by Sionas Architecture, dated 05/06/14
- A-3 Sheet SP2B by Sionas Architecture, dated 05/06/14
- A-4 Rendering depicting original parking lot
- A-5 Photographs showing examples of tar & chip paving
- A-6 Rendering depicting revised parking lot

The Board questioned Mr. Sionas. Mr. Sionas and Mr. Plofker addressed questions from the Board regarding the position of the subdivision line and the design and location of driveways and parking spaces. After some discussion, the applicant requested to carry the application to the Board's next meeting so that they can review the plans further and potentially submit revisions before proceeding further. No

questions were offered from the public. Vice Chair Whipple announced that the application would continue at the June 18, 2014 meeting of the Board, and that no further notice will be required. The Board was granted an extension of time.

On motion by Mr. Fleischer, seconded by Mr. Edwards, the meeting was adjourned.