

MINUTES OF THE BOARD OF ADJUSTMENT
October 15, 2014

PRESENT: Chair Harrison, Ms. Checca, Mr. Fleischer, Mr. Kenney, Mr. Reynolds, Mr. Susswein; also Mr. Sullivan, Esq., Ms. Talley, Secretary, and Mr. Charreun, Assistant Secretary

ABSENT: Mr. Edwards, Mr. Tsai, and Vice Chair Whipple; also Mr. Burr who recently resigned

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. Susswein, the **Minutes of the September 17, 2014** meeting were adopted as modified, Ms. Checca and Mr. Kenney abstaining.

On motion by Mr. Fleischer, seconded by Mr. Susswein, the following resolution memorializing the Board's decision on the application of **David & Naomi Kirkman, 722 Valley Road** was adopted, Ms. Checca and Mr. Kenney abstaining:

WHEREAS, David & Naomi Kirkman, did make an application to the Board of Adjustment of the Township of Montclair for variances pursuant to N.J.S.A. 40:55D-70c to construct a deck and install a hot tub at the rear of the dwelling, on property designated as Lot 4 in Block 1802 on the Township Tax Map and located in the R-2 Two-Family Zone; and

WHEREAS, Montclair Code Section 305-6 sets forth the location requirements for hot tubs, and Montclair Code Section 305-14 grants the Board of Adjustment the power to authorize variances from Chapter 305; and

WHEREAS, the applicant requested the following relief:

1. For the proposed deck, a variance from Montclair Code Section 347-51 for a side yard setback of less than 6 feet from the southerly side property line; and
2. For the proposed deck, a variance from Montclair Code Section 347-51 for a rear yard setback of less than 25 percent of the lot depth; and
3. For the proposed deck, a variance from Montclair Code Section 347-51 to exceed the maximum permitted principal structure coverage of 25 percent of the lot area; and

4. For the proposed hot tub, a variance from Montclair Code Section 305-6A for a side yard setback of less than 15 feet (or 10 feet with the required landscaping) from the southerly side property line; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on September 19, 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 plans by Oasis Architecture, dated June 24, 2014; and

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

1. The property is located in the R-2 Two-Family Zone and contains single family dwelling. The lot measures 50 feet by 119.50 feet.

2. The southerly side yard setback of the existing dwelling is nonconforming, being setback 0.23 feet from the southerly side property line. The proposed deck is roughly aligned with the southerly side of the dwelling and a setback of 6¼ inches is proposed from the southerly side property line. A variance is requested for a side yard setback of less the 6 feet from the southerly side property line.

3. The minimum permitted rear yard setback for the proposed deck is 29.88 feet, or 25 percent of the 119.50 lot depth. A rear yard setback of 27 feet 6¾ inches is proposed and a variance is requested.

4. The maximum permitted principal structure coverage is 25 percent of the lot area. The lot area is 5,975 square feet, which permits a coverage of 1,493.75 square feet. The existing coverage is 1,484 square feet which is 24.8 percent of the lot area. The proposed coverage including the proposed deck is 1,839 square feet, which is 30.78 percent of the lot area, and a variance is requested.

5. The proposed hot tub is built into the proposed deck and would be positioned approximately 1.5 feet from the southerly side property line. Cedar fencing is proposed on the deck to screen the hot tub, and would have a top height of 9 feet and 11.5 inches from the ground.

6. The Board determined that the requested side yard setback variances for the deck and the hot tub could not be granted without significantly impacting the adjoining property.

7. The Board also determined, however, that due to the deep placement of the dwelling on the lot and the relatively limited lot area, variances could be granted for

the rear yard setback of the deck and the principal structure coverage on the lot without a negative impact to an adjoining property.

8. Recognizing that the denial of the requested side yard setback variances changed the size and usability of the proposed deck significantly, and in order for the applicant to be able to construct a reasonably sized deck with a built in hot tub, the Board granted a variance for a rear yard setback down to a minimum of 25 feet, and permitted the maximum principal structure coverage to be increased to 1,884 square feet or a maximum of 31.5% of the lot area; and

WHEREAS, the Board, based upon the foregoing findings regarding the variances requested for southerly side yard setback of the deck and hot tub, concluded that the applicant did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and did not prove that the variances 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 regarding the variances requested for southerly side yard setback of the deck and hot tub, concluded that the applicant did not prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, did not prove that the benefits of the deviation would substantially outweigh any detriment, and did not prove 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

WHEREAS, the Board, based upon the foregoing findings regarding the variances requested for the rear yard setback of the deck and the principal structure coverage on the lot, as amended in Finding 8, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and proved that the variances 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 upon the foregoing findings regarding the variances requested for rear yard setback of the deck and the principal structure coverage on the lot, as amended in Finding 8, 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 variances 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 side yard setback variances requested for the deck and hot tub are hereby denied; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the variances requested for the rear yard setback of the deck and the principal structure coverage on the lot, are hereby approved, subject to the following conditions:

1. The rear yard setback of the deck shall not be less than 25 feet.
2. The principal structure coverage shall not exceed 31.5 percent of the lot area.

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 Town Center, LLC, 37 North Mountain Avenue and 323 Claremont Avenue** was adopted as modified, Chair Harrison, Ms. Checca, and Mr. Kenney abstaining:

WHEREAS, Montclair Town Center LLC, as owner, did make application to the Board of Adjustment of the Township of Montclair for preliminary and final site plan and minor subdivision approval in connection with the expansion of the Georgian Inn, expanded parking, landscaping, lighting and related site improvements on Lot 20 in Block 1507, reconfiguration of parking on Lot 19 in Block 1507, as well as relocation of the common lot line between the two lots on property located in the R-3 Garden Group Zone; and

WHEREAS, the applicant requested the following relief with respect to Lot 20 as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(2) to permit expansion of a nonconforming use contrary to Montclair Code Section 347-53.
2. A variance pursuant to N.J.S.A. 40:55D-70d(6) to permit building height of 47.5 feet where a maximum of 35 feet is allowed pursuant to Montclair Code Section 347-57A.
3. A variance pursuant to N.J.S.A. 40:55D-70c to allow building height of five stories where a maximum of two and one-half stories is permitted pursuant to Montclair Code Section 347-57A.

4. A variance pursuant to N.J.S.A. 40:55D-70c to permit a zero foot parking setback at the subdivision line where a minimum of four feet is required pursuant to Montclair Code Section 347-104.

5. A variance pursuant to N.J.S.A. 40:55D-70c to permit a rear yard setback of 18 feet where a minimum of 66 feet is required pursuant to Montclair Code Section 347-57A.

6. A variance pursuant to N.J.S.A. 40:55D-70c to permit parking between the building and street curb which is contrary to Montclair Code Section 347-58D.

7. A variance pursuant to N.J.S.A. 40:55D-70c to permit a fence height of eight feet where a maximum of seven feet is permitted pursuant to Montclair Code Section 347-27A(2).

8. An exception pursuant to N.J.S.A. 40:55D-51b to permit parallel parking spaces 19.7 feet in length where a minimum of 22 feet is required pursuant to Montclair Code Section 281-9K.

9. An exception pursuant to N.J.S.A. 40:55D-51b to permit parking spaces with a length of 18 feet where a minimum of 19 feet is required pursuant to Montclair Code Section 281-9B.

WHEREAS, the applicant requested the following relief with respect to Lot 19 as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(1) to relocate (through a lot line adjustment) the carriage house from Lot 20 to Lot 19 which contains the French Language School on the first floor and a residential apartment on the second floor which is not a permitted use pursuant to Montclair Code Section 347-53.

2. A variance pursuant to N.J.S.A. 40:55D-70c to permit a zero foot parking setback at the subdivision line where a minimum of four feet is required pursuant to Montclair Code Section 347-104.

3. A variance pursuant to N.J.S.A. 40:55D-70c to permit a rear yard setback of 9.84 feet where a minimum of 66 feet is required pursuant to Montclair Code Section 347-57A.

WHEREAS, the applicant submitted a site plan, floor plans and elevations prepared by Sionas Architecture PC, Sheets SP1 through SP4 dated April 10, 2013 revised through September 9, 2014; Sheets A0, A1, A2, A3, A4, A5, EX1 and EX2 dated April 10, 2013 revised through June 12, 2014 and Sheet A6 dated June 12, 2014; and

WHEREAS, this matter came on to be heard at meetings of the Board of Adjustment held on March 19, May 21, July 16, August 20 and September 17, 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 is located at the northeast corner of Claremont Avenue and North Mountain Avenue. Lot 20 consisting of 54,017 square feet of lot area is improved with the Georgian Inn, a 15-unit hotel, and a two story carriage house which contains a foreign language institute on the first floor and a dwelling unit on the second floor. Lot 19 contains 11,407 square feet of lot area and is improved with a two and one-half story, three-family house known as the Kohout House. A shared parking lot containing 51 parking spaces, including two handicap spaces, is located between the three buildings.

2. The area surrounding the subject property is residential in character and contains a mix of residential and commercial uses. The property is bordered by residential structures on Claremont Avenue to the east; a 15-unit apartment building to the west; a house converted to office use to the north; and a community residence and single-family homes to the south across Claremont Avenue. The Charles Schultz House, which is an historic site owned by the Montclair Historical Society, is southwest of the site at the opposite corner of the intersection.

3. The applicant proposes to renovate and upgrade the Georgian Inn to increase capacity from 15 rooms to 34 rooms. The medical office use on the ground floor will be eliminated. The expansion of the Georgian Inn consists of three additions: a two and one-half story addition over the existing first floor at the south side of the building; a two story addition along the north side of the building and a five story addition along the north side of the building to accommodate a new elevator. A new 11 space parking lot is proposed south of the Georgian Inn as well as lighting, landscaping and related site improvements. As part of the proposed minor subdivision, the applicant proposes to relocate the existing lot line separating Lots 19 and 20 so that the Georgian Inn will remain on Lot 20, however, the carriage house and Kohout House will be located on Lot 19.

4. The applicant's plan provides for two driveways on Lot 19; one exit only and one entrance only from Claremont Avenue. With respect to Lot 20, a two-way driveway from Claremont Avenue serves the rear parking area and a one-way semi-circle driveway from North Mountain Avenue provides for access to and exit from the newly created parking lot. Based upon the testimony presented, the Board determined the applicant's plan provides adequate and safe ingress, egress and on-site traffic circulation.

5. The subject property is located at the southern end of the Mountain Historic District which is on the state and national register of historic places. The Georgian Inn was constructed in 1902 and has operated as a hotel since 1944. It is recognized as an outstanding example of Classical Revival architecture and is a local historic landmark. The expansion and renovation of the Georgian Inn will bring the building up to modern building codes, add an elevator for handicap access and improved functionality. In addition, the applicant's proposed upgrades to the Georgian Inn and substantial landscaping improvements including over 300 new plantings represents a substantial aesthetic enhancement. Approval of the application constitutes appropriate municipal action in a manner which promotes the public health, safety and general welfare, promotes a desirable visual environment and promotes conservation of historic sites and districts consistent with N.J.S.A. 40:55D-2a, i and j.

6. The applicant sought height variances related to the expansion of the Georgian Inn to permit 45.7 feet building height and five stories where a maximum of 35 feet building height and two and one-half stories is allowed. The increased height accommodates rooftop mechanicals associated with the addition of an elevator which will provide handicap access. The addition will provide adequate light, air and open space on the site and results in a building of appropriate size and scale. Although nonconforming as to height, the building is accommodated on the site without any problems typically associated with a building at a height greater than permitted by Ordinance.

7. The applicant proposes to relocate the existing lot line separating Lots 19 and 20 so that the Georgian Inn will remain on Lot 20, however, the carriage house will now be located on Lot 19 along with the Kohout House. Lots 20 and 19 will now contain 37,440 and 27,984 square feet of lot area respectively. The carriage house which contains a foreign language institute on the first floor and dwelling unit on the second floor was the subject of a use variance approval from the Board by resolution adopted November 16, 2011. At that time, the Board made substantial findings in favor of the grant of the variance including the fact that the proposed site is particularly suited for the use. The Board determined that the relocation of the lot line does not change the use of the carriage house or the Kohout House. The site remains particularly suited and the "technical" variance pursuant to N.J.S.A. 40:55D-70d(1) resulting from the reconfiguration of the lot line is warranted.

8. The applicant's plan provides a zero foot parking setback at the subdivision line where a minimum of four feet is required and provides parking between the building and street curb which is not permitted. The deviations allow for an appropriate parking plan with substantial landscaping and safe and adequate on-site traffic circulation. Based upon the location of the three buildings on site, the strict application of these requirements results in peculiar and exceptional practical difficulties and undue hardship upon the applicant.

9. The applicant also sought variances relating to rear yard setbacks. The requested variance relating to the rear yard setback on Lot 19 is an existing condition. The rear yard setback for Lot 20 allows for the appropriate modernization of the Georgian Inn, provides adequate light, air and open space and is appropriate given the location of the existing improvements.

10. Although the proposed fence exceeds the maximum height permitted by Ordinance by one foot, the additional height is necessary to screen the proposed chiller which represents a public benefit.

11. With respect to the requested exceptions relating to length of parking spaces, the deviations are minimal and the applicant's parking plan is reasonable and within the general purpose and intent of the provisions for site plan review and with respect to this property, the literal enforcement of those provisions is impracticable and will exact undue hardship because of peculiar conditions pertaining to the subject property.

12. Based upon the testimony adduced at the hearings, the Board determined that the application is consistent with the intent and purpose of the Master Plan and Zoning Ordinance which seeks to preserve historic structures and sites and will contribute to the vitality of the area by providing a variety of appropriate uses.

13. Based upon the Board's particular knowledge of local conditions, the Board determined approval of the application will not cause substantial detriment to area properties.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant proved the requisite special reasons for the granting of this application and proved by a preponderance of the evidence that the proposed relief 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.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and that the variances 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 N.J.S.A. 40:55D-70c(1); and

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 Town Center LLC for preliminary and final site plan, minor subdivision, variances and waivers as outlined herein is hereby approved subject to the following conditions:

1. The applicant shall satisfy and comply with paragraphs 1 through 6 contained in the September 16, 2014 report of W. Thomas Watkinson, Montclair Zoning Board Engineer.
2. The applicant shall return to the Montclair Historic Preservation Commission for final details of materials, signs, lights, landscape treatments and design to be used on buildings and grounds.
3. The applicant shall submit a revised minor subdivision plan consistent with the approved plan.
4. The minor subdivision approval shall expire 190 days from the date of adoption of this resolution unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Law" or a Deed clearly describing the approved minor subdivision is filed with the County Recording Officer, the Municipal Engineer and the Municipal Tax Assessor in accordance with N.J.S.A. 40:55D-47d, unless further extended by the Board.
5. The applicant shall be bound by all representations made on its behalf by its attorney and professionals during the course of the public hearing.
6. The applicant shall be responsible for all inspection fees required under Montclair Code Section 202-27 as well as escrow fees 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.

Richard Stanzione, Esq., appeared as attorney for the continuation of the application of **New York SMSA Limited Partnership d/b/a Verizon Wireless, 10 Pine Street** was announced. With 4 eligible Board members present, and with Mr. Reynolds about to arrive shortly, Mr. Stanzione stated that they would wait to proceed.

The application of **Rose DeSomma, 46 Montclair Avenue** was announced. Ben DeSomma, 73 Manor Road, Denville, NJ, was sworn. The applicant is his mother, and she was present in the audience. Mr. DeSomma described the application to construct a new detached garage. The old garage was recently removed as the roof collapsed due to the snowfall from last winter. The concrete slab is still in the ground, and they intend

to install a pre-fabricated garage on the existing concrete slab. They would like to replicate the previously existing setbacks of 4.62 feet and 4.73 feet from the Chestnut Street front property line and are requesting a variance.

The Board questioned the Mr. DeSomma. He recognized that the plan submitted for the garage has a width facing Chestnut Street of 19 feet 3 inches and a length of 23 feet. He stated that he measured the existing slab and found that it has a width facing Chestnut Street of 23 feet and a length of 20 feet 1 inch. He stated that he would ask the architect who created the plan for the pre-fabricated garage to create a new drawing that would assure that the new garage is the same size as the previously existing garage. He stated that if the garage footprint was to be moved back farther from Chestnut Street, they would have to remove at least 2 mature trees in the rear yard. He stated that they would prefer not to turn the garage doors to face the back of the dwelling for the new garage, since it would eliminate the extra guest parking on the side of the garage. No questions or comments were offered from the public.

The Board discussed the application and determined that the requested variance could be approved, subject to the conditions below. Based on the testimony provided, the new garage would be in the same location and have the same footprint size as the previous garage. The Board determined that the detriments of moving the new garage further away from Chestnut Street, which include the removal of trees and increasing the impervious surface coverage, would outweigh the benefits that would be provided by the larger setback. On motion by Mr. Fleischer, seconded by Mr. Susswein, the application was approved, subject to the following conditions

1. The footprint of the new garage shall not exceed 23 feet in width facing Chestnut Street and 20 feet 1 inch in length.
2. The setback from the Chestnut Street front property line shall be no less than the existing setbacks depicted on the property survey.
3. The new garage shall comply with the 6 foot minimum rear yard setback and the maximum accessory building height of 15 feet.

Mr. Reynolds joined the Board. Mr. Fleischer was recused from the next application. Chair Harrison announced the continuation of the application of **New York SMSA Limited Partnership d/b/a Verizon Wireless, 10 Pine Street**. Richard Stanzione, Esq., appeared as attorney for the applicant. He stated that with 5 eligible Board members present, the applicant would like to put forth additional testimony this evening and carry the conclusion to a subsequent meeting. Richard Polton, property owner, was sworn. He stated that he is not in favor of allowing the applicant to install parapet mounted antennas and equipment, due to the penetrations to the walls and roof of the building that would be required for that type of installation. He also stated that he was not in favor of that type of installation because it would be more visible from the street than what is proposed. The Board questioned Mr. Polton. He stated that a new

multistory building is proposed on this site near the existing building. The new building will be one story taller than the existing building on site. He stated that the applicant is aware of the building that will be constructed. He could not say whether the new building will be suitable for the proposed telecommunications equipment at this time. He stated that if additional carriers proposed to install on the roof of the existing building, he would only allow it if it met similar criteria as the proposed installation. No questions were offered from the public.

Exhibit marked:

A-3 Photographs and Photo-simulations

Adam Feehan, Professional Engineer, was recalled and answered questions from the Board. He stated that an installation consisting of antennas mounted flush at 3 different locations on the building parapets would work, although it would be more visible from street level and require more cables and penetrations into the building. The new building to be built on the site would block some of the signal in that direction, although many of the offloading objectives would still be met since it would provide service to the new occupants and visitors in that building. He described the problems with using the elevator shaft on the parking garage across the street and stated that the mass of the adjoining apartment building would greatly reduce the signal to the north.

Exhibit marked:

A-4 Aerial Photograph

The Board questioned Mr. Feehan. He stated that he personally has been involved in 5 other similar applications in New Jersey. Mr. Stanzione stated that he first started to work on the small network node application in late 2013. Mr. Feehan stated that he is not aware of any other existing similar installation in Montclair. Secretary Talley stated that there is presently a recently filed application for a Verizon small network node at the former Southwest School at 208 South Mountain Avenue. Mr. Feehan stated that the firehouse on Pine Street is also not a suitable location since the buildings to the north block much of the signal in that direction. He stated that the gamma sector to the north is the applicant's highest priority presently.

Michael Fisher, Professional Engineer, was sworn and stated his qualifications regarding wireless telecommunications installations and radio frequency emissions. He reviewed the FCC Compliance Report, prepared by Millennium Engineering, PC, dated June 24, 2014, submitted with the application. He 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. No questions were offered from the Board or the public.

William F. Masters, Jr., Professional Planner was sworn and stated his qualifications. He stated that the Eastern Gateway Redevelopment Plan that governs the zoning for the property does not include wireless telecommunications equipment as a permitted use. The applicant is seeking a use variance. The application meets the statutory criteria for the granting of the use variance. The site is particular suited for the use which satisfies the positive criteria. The use serves the general welfare and a significant public benefit is derived. Based on the specifics of the application, there is minimal detrimental effect. He referred to photographs and photo-simulations displayed on Exhibit A-3. There is very limited visibility of the proposed equipment from the street level. The applicant is open to considering further shielding options if the Board finds it necessary. The Board questioned Mr. Masters. He stated that the applicant could consider an antenna screen that appears like a roof mounted vent pipe. He stated that the visibility of the equipment caused by mounting 3 panel antennas flush on the roof parapets would have a greater negative impact. He also states that in his opinion the Board would be able to consider future applications for wireless telecommunications equipment differently if those proposals had a greater negative impact due to visibility. No questions were offered from the public.

Mr. Stanzione requested that the application be carried to a subsequent meeting in order to potentially have more than 5 eligible Board members present. Chair Harrison announced that the application would continue at the November 19, 2014 meeting. No further notice would be given. The Board was granted an extension of time.

Mr. Fleischer rejoined the Board. The application of **Bruce Jackson, 12 Orange Road** was announced. Bruce Jackson was sworn and described the application to construct a front porch and a second floor addition onto the dwelling. He recently purchased the dwelling and is in the process of converting the dwelling from a two-family dwelling to a one-family dwelling. The existing roofed front stoop would be removed and replaced with a wider roofed front porch that will be very similar to the existing front porches on the other houses in the neighborhood. An addition to the second floor is proposed at the northwesterly rear corner of the dwelling that will add approximately 100 square feet and provide space for a 3rd bedroom. The addition is to be supported by columns and does not have an enclosed first floor below it. Several variances are requested, however, the front porch and addition are aligned with the existing walls and footprint of the dwelling.

Exhibit marked:

A-1 5 Photographs of the subject dwelling and others in the neighborhood

The Board briefly questioned the Mr. Jackson. No questions or comments were offered from the public. The Board discussed the application and determined that the variances requested could be approved. The variances are largely based on the existing conditions of the lot and the position of the dwelling on the lot. The proposed improvements help to modernize the dwelling and improve its appearance. The

proposed improvements are in keeping with the size and character of the other dwellings in the neighborhood will not negatively impact a neighbor or the streetscape. On motion by Mr. Fleischer, seconded by Mr. Susswein, the application was approved.

Chair Harrison was recused and left the meeting. There were now 5 Board members present. With Vice Chair Whipple being absent, the Board elected Mr. Fleischer as Temporary Chair. The application of **Willard Place Partners, 9 Willard Place** was announced. Alan Trembulak, Esq. appeared as attorney for the applicant. He stated that with 5 Board members present, the applicant would put testimony on the record and carry the application for anything further, including a vote. Richard Leal, Vice President of Facility Design and Development for Fresh Direct, was sworn. He described the existing business operations of their company in great detail. The existing business operates in New York and New Jersey and is almost totally delivery based. They are now seeking to set up a customer pick up oriented facility as a new aspect to their business. They have identified the subject property in Montclair as a location to establish the grocery pick up facility. He described the applicant's approach to developing the property in detail and also described the anticipated operations of the facility in detail. He stated that the building in the site would be developed to resemble a farm stand environment. Pick-up activities for any one customer are only provided only during a specific time frame in order to avoid delays for other customers, and to avoid any overcrowding on the site. Their hours would be from 8:30 am to 9 pm on weekdays. The busiest time frame is anticipated to be between 10 am and 2 pm, and then again from 4 pm to 7 pm. Weekend hours would be from 8:30 am to 8 pm. There would only 2 trucks deliveries per day. There would be 1 full time employee on the site, not including the driver and helper that visit the site with the delivery truck. The on-site employee would park in the garage. The 2 on-site spaces on the plan are to provide handicapped parking and to try and comply with zoning. He also described the mechanical equipment contemplated for the building.

The Board questioned Mr. Leal. They have not done a traffic study. They feel their truck traffic is very limited, and they limit customer trips to keep their business operating efficiently. Several questions were asked about signage. Mr. Leal stated that they would return with more information about the mechanical equipment that may be used for air-conditioning. He stated that they would examine how many customer vehicles they would anticipate having per hour for specific hours of the day.

Bradley Zizmor, Architect, was sworn. He stated that he is licensed in New York but not in New Jersey. Mr. Sullivan stated that Mr. Zizmor can testify to the plans submitted, but that a New Jersey licensed Architect would have to sign the plan if a project is ever to be executed for permits. Mr. Zizmor described how the applicant anticipates utilizing the property. Based on the principles and business models of the client, they intend to significantly increase the amount of green space on the site and model the property as farm stand type of facility. He described the intended changes to the building and how the interior would be laid out. He also described the general layout of green space on the site and the idea behind the driveway layout. He described the

properties in the neighborhood and how the proposed plan would improve certain conditions. Kelsey Lents, was sworn. She is employed by the Architect, but is not a licensed Architect in New York or New Jersey. She has worked extensively on the plan. Mr. Sullivan stated that Ms. Lents can testify to the plan but she cannot be considered an expert witness. Ms. Lents described the plans in detail. She described the building on the site and the proposed changes. She also described the existing site and the proposed changes to the site. She described the proposed signage in detail.

Exhibit marked:

A-1 Power point presentation

The Board questioned Mr. Zizmor and Ms. Lents. Mr. Zizmor described the proposed canopy structure in some detail. He also described the proposed site lighting. Mr. Zizmor stated that the plan can be revised to eliminate the non-handicapped parking space in the center of the site. Mr. Zizmor addressed questions about the proposed canopy and the signage.

Mr. Trembulak requested that the application continue at the November 19, 2014 meeting of the Board. The Board was granted an extension of time and no further notice would be given. On motion by Mr. Fleischer, seconded by Mr. Susswein, the meeting was adjourned.