

**MINUTES OF THE BOARD OF ADJUSTMENT**  
**March 20, 2013**

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

ABSENT: Ms. Checca and Ms. Talley, Secretary

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. Whipple, seconded by Mr. Burr, the **Minutes of the February 20, 2013** regular meeting were adopted modified, Mr. Fleischer abstaining.

On motion by Mr. Whipple, seconded by Mr. Burr, the following resolution memorializing the Board's decision on the application of **Michael & Barbara Gregory, 179 Cooper Avenue**, was adopted, Mr. Fleischer abstaining:

WHEREAS, Michael & Barbara Gregory, 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 new detached garage to replace an existing detached garage that was damaged during a storm, on property designated as Lot 11 in Block 2605 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, variances are requested from Montclair Code Section 347-46A(2)(a) for a side yard setback of less than 6 feet from the westerly side property line, and from Montclair Code Section 347-46A(3) for a rear yard setback of less than 6 feet; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on February 20, 2013, 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 a property survey dated June 1971, and plans by John Thomas Collins, Architect, dated December 2012; and

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

1. The property is located in the R-1 One-Family Zone and contains a single family dwelling and a detached garage in the rear yard. The width of the lot across the rear property line measures 73.35 feet. The lot area measures 15,820 square feet.

2. Variances are requested to construct a new detached garage to replace an existing detached garage that was damaged during a storm. The width of the garage footprint would be expanded from the existing 18.5 foot width to 20 feet in width. The 20 foot length would remain the same.

3. The existing westerly side yard setback of 3.10 feet at the front corner of garage, and the existing rear yard setback of approximately 3 feet at the westerly rear corner of the garage, are also proposed for the new garage. The rear lot line contains a "jog" in the line in the vicinity of the garage. The area where the garage footprint is being expanded is, for the most part, located further from the rear property line, due to the "jog" in the rear property line.

4. The Board determined that the requested variances could be approved. The location the proposed garage matches that of the existing garage. The 1.5 foot increase in the width of the garage is minor and a reasonable modernization. Subject to the condition below, the proposed westerly side yard and rear yard setbacks do not negatively impact any adjoining property; 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 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, 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 within application is hereby approved, subject to the following condition:

1. Roof drainage from the new garage is to be from roof gutters with leaders located at the front of the garage. The westerly side leader will discharge onto the existing curbed driveway and flow towards the street. The easterly side leader will discharge onto the ground in the rear yard of the property.

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. Whipple, seconded by Mr. Burr, the following resolution memorializing the Board's decision on the application of **Savita & Matthew Lepore, 137 Cooper Avenue**, was adopted, Mr. Fleischer abstaining:

WHEREAS, Savita & Matthew Lepore, 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 new detached garage to replace an existing detached garage that was damaged during a storm, on property designated as Lot 39 in Block 3507 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, variances are requested from Montclair Code Section 347-46A(2)(a) for a side yard setback of less than 6 feet from the westerly side property line, and from Montclair Code Section 347-46A(3) for a rear yard setback of less than 6 feet; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on February 20, 2013, 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 a property survey dated April 2012, and architectural plans dated January 18, 2013; and

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

1. The property is located in the R-1 One-Family Zone and contains a single family dwelling and a detached garage in the rear yard. The width of the lot across the rear property line measures 80.03 feet. The lot area measures 12,255 square feet.

2. Variances are requested to construct a new detached garage to replace an existing detached garage that was damaged during a storm. The existing garage measures 24 feet wide by 20 feet long. The proposed garage would be reduced in width, to be 21 feet wide by 20 feet long.

3. The existing westerly side yard setbacks of 4.56 feet and 5.10 feet, at the westerly corners of garage, and existing rear yard setback of 2.57 feet, are also proposed for the new garage.

4. The Board determined that the requested variances could be approved. The location the proposed garage matches that of the existing. The reduced width of the garage reduces the impact of the rear yard setback. Subject to the condition below, the proposed westerly side yard and rear yard setbacks do not negatively impact any adjoining property; 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 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, 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 within application is hereby approved, subject to the following condition:

1. The roof leaders shall be designed to discharge water away from the westerly side and rear property lines. The roof leader from the westerly side of the garage shall be at the rear of the garage, and shall extend across the rear of the garage to discharge onto the ground in the rear yard of the property at the easterly side of the garage.

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. Whipple, seconded by Mr. Burr, the following resolution memorializing the Board's decision on the application of **Robert & Sally Iracane, 212 Watching Avenue**, was adopted as modified, Mr. Fleischer abstaining:

WHEREAS, Robert & Sally Iracane, 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 new detached garage to replace an existing detached garage that was damaged during a storm, on property designated as Lot 12 in Block 4503 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, a variance is requested from Montclair Code Section 347-46A(2)(b) for a side yard setback of less than 6 feet from the westerly side property line; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on February 20, 2013, 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 a property survey dated April 2012, and architectural plans by Brinkman Architecture dated January 22, 2013; 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 Watching Avenue and Morningside Avenue, located in the R-1 One-Family Zone. The property contains a single family dwelling and a detached garage in the rear yard accessed by a driveway on Morningside Avenue. The lot measures 59.40 feet wide across the rear property line closest to the garage. The lot measures 8,309 square feet in lot area.

2. A variance is requested to construct a new detached garage to replace an existing detached garage that was damaged during a storm. The existing garage measures 18 feet wide by 20 feet long. The proposed garage would match those dimensions. The existing side yard setback of 1.14 feet is also proposed for the new garage from the westerly property line.

3. The applicant indicated that the intent at this time is to construct the new garage framing on the existing concrete slab. Until the garage is demolished, they cannot inspect the existing footing to be sure it is compliant with construction code. The applicant agreed to limit the roof overhang extending into the side yard setback to a maximum of 9 inches, and that if a new footing is required for any reason, that the side yard setback would be a minimum of 3 feet.

4. The Board determined that under specific circumstances, the requested variance could be approved, subject to the conditions below. The location and size the proposed garage matches that of the existing garage. Subject to the condition below, the proposed side yard setback would not negatively impact the adjoining property; 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, subject to the following condition:

1. The 1.14 foot side yard setback is only approved for the construction of the garage on the existing slab and footing. Should a new footing be constructed for any reason, the minimum side yard setback must be at least 3 feet.

2. If the garage is constructed with the 1.14 foot side yard setback, the roof overhang projecting towards that side yard shall be a maximum of 9 inches, which should be detailed on the plans submitted for permits.

3. The roof leaders shall be at the front of the garage, as shown on the plan submitted to the Board.

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. Whipple, seconded by Mr. Burr, the following resolution memorializing the Board's decision on the application of **Karen Cahn, 356 Park Street**, was adopted, Mr. Fleischer abstaining:

WHEREAS, Karen Cahn, 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 an addition onto the rear of the dwelling, on property designated as Lot 19 in Block 2606 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS a variance is requested from Montclair Code Section 347-45D for a rear yard setback of less than required from the westerly property line; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on February 20, 2013, 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 a property survey dated December 2012, and architectural plans by George A. Held, AIA & Associates dated January 4, 2013; 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 Park Street and Summit Avenue, located in the R-1 One-Family Zone. The property contains a single family dwelling and a detached garage in the rear yard accessed by a driveway from Summit Avenue.

2. The lot measures 143.17 feet wide across the Park Street frontage and 150 feet across the Summit Avenue frontage. The lot measures 22,418 square feet in lot

area. The subject property is not a double lot, as there is insufficient frontage on Park Street for a minor subdivision.

3. Based on the zoning ordinance, the rear property line of the subject property is the westerly property line, opposite from Park Street, because the Park Street frontage is narrower than the Summit Avenue frontage.

4. The existing detached garage would be removed. A 2½ story addition is proposed at the rear of the dwelling, which would contain a new attached garage on the ground/first floor.

5. The lot depth as defined in the zoning ordinance is 156 feet. The required rear yard setback for additions to the dwelling is a minimum of 25 percent of the lot depth or 39 feet. The existing dwelling has a rear yard setback of approximately 55.97 feet. The proposed addition with the attached garage would have a rear yard setback of 28.63, and a variance is requested.

6. The Board determined that the requested variance could be approved based on the unique characteristics of the property and the application, such as the placement of the existing dwelling on the lot and most significantly, the removal of the existing detached garage in the rear yard. The proposal represents a reasonable modernization of the dwelling. The addition is thoughtfully designed to reduce the impact on the rear yard setback, having the upper floors stepped back from the ground floor level. The removal of the existing detached garage as part of the plan and the landscaping of the area where the detached garage exits will enhance the open space near the side and rear property lines and the improve the aesthetics of the property; 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. Burr, seconded by Mr. Edwards, the following resolution memorializing the Board's decision on the application of **Danielle & Michael Zinn, 115 Midland Avenue**, as adopted, Mr. Fleischer abstaining:

WHEREAS, Danielle & Michael Zinn, 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 an addition and a deck onto the rear of the dwelling, on property designated as Lot 29 in Block 2306 on the Township Tax Map and located in the R-2 Two-Family Zone; and

WHEREAS, a variance is requested from Montclair Code Section 347-51 for a side yard setback of less than 6 feet from the northerly side property line; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on February 20, 2013, 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 a property survey dated February 2005, and plans by Erik Schultz Architecture, dated January 25, 2013; 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 a single family dwelling. The lot measures 56 feet in width and is 244 feet deep.
2. An existing deck at the rear of the dwelling would be removed. A one-story addition is proposed at the rear of the dwelling to expand an existing kitchen. A new deck is also proposed at the rear of the dwelling.
3. The existing northerly side yard setback of the dwelling is nonconforming, measuring 2.33 feet and 2.13 feet at the front and rear northerly corners of the dwelling, where a minimum of 6 feet is required.
4. The kitchen addition would extend the nonconforming northerly side yard setback 8 feet further and requires a variance. The new deck surface would be 7 feet from the northerly side line, however, the stairs depicted on the northerly side of the deck would be set back 4 feet from the northerly side property line and require a variance.

5. The Board determined that the requested variance could be approved. The addition is aligned with the northerly side wall of the dwelling. The one story addition and the deck are relatively small in size and have been thoughtfully designed with regard to the nonconforming northerly side yard setback, and will not negatively impact the adjoining property owner; 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. Whipple, seconded by Mr. Burr, the following resolution memorializing the Board's decision on the application of **Eric & Molly Severson, 114 Westview Road**, was adopted, Mr. Whipple and Mr. Fleischer abstaining:

WHEREAS, Eric & Molly Severson, 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 new detached garage to replace an existing detached garage that was damaged during a storm, on property designated as Lot 10 in Block 3702 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, variances are requested from Montclair Code Section 347-46A(2)(a) for a side yard setback of less than 6 feet from the westerly side property line, and from Montclair Code Section 347-46A(3) for a rear yard setback of less than 6 feet; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on February 20, 2013, 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 a property survey, and architectural plans dated January 12, 2013; and

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

1. The property is located in the R-1 One-Family Zone and contains a single family dwelling and a detached garage in the rear yard. The lot measures 50 feet wide by 175 feet deep.

2. Variances are requested to construct a new detached garage to replace an existing detached garage that was damaged during a storm. The existing garage measures approximately 19 feet wide by 19 feet deep. The proposed garage would be increased in size to 21 feet wide by 20 feet deep.

3. The existing easterly side yard setbacks of 2.69 feet and 2.95 feet, at the easterly corners of garage, and the existing rear yard setback of approximately 3 feet, are also proposed for the new garage. The "bump-out" bay that projects into the rear yard setback of the existing garage would not be reconstructed for the new garage.

4. The Board determined that the requested variances could be approved. The location the proposed garage matches that of the existing garage. The increase in the size of the garage is relatively minor and is a reasonable modernization. Subject to the condition below, the proposed easterly side yard and rear yard setbacks do not negatively impact any adjoining property; 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 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, 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 within application is hereby approved, subject to the following condition:

1. The roof leaders shall be designed to discharge water away from the easterly side and rear property lines. The roof leader on the easterly side of the garage

shall be at the front of the garage, but directed towards the rear, to allow the discharge an opportunity to be absorbed in the side yard before flowing onto the neighboring property.

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.

Mr. Kenney arrived at the meeting. The application of **Gary R. Lewis, 137 Grove Street** was announced. Grant Gille, Esq. appeared as attorney for the applicant and described the application. Roger DeNiscia, Professional Planner was sworn and provided his qualifications. Mr. DeNiscia described the application. The property is located on the easterly side of Grove Street, 51.25 feet from the intersection of Oxford Street and contains approximately 6,475 square feet of lot area. The property is improved with a two and one-half story frame dwelling containing two separate and distinct units each with separate means of access plus an attached two car garage. The purpose of this application is to legalize the two-family residential use.

Mr. DeNiscia described the history of the use of the property. From 1936 through 1947, the property was located in the R-2 Two-Family Zone and Dr. Caggiano operated his medical office on the first floor and resided on the second floor with his family. By resolution adopted March 7, 1950, the Zoning Board of Adjustment recommended approval to the Board of Commissioners that Dr. Caggiano's application to permit medical use of the first floor by a nonresident separate and apart from the residential use on the second and third floors in the R-2 Two-Family Zone, which was then approved by the Board of Commissioners. In 1956 Dr. Caggiano sold the property to Dr. Zingali, who utilized the first floor for his practice. Dr. Zingali did not reside in the building and rented the second and third floors for single family residential use. In 1966 Dr. Zingali sold the building to his tenant, but continued to use the first floor medical space as a tenant. By resolution adopted April 15, 1971, the Zoning Board of Adjustment recommended to the Board of Commissioners approval of the application to allow Dr. Zingali's son to occupy the first floor as dental office space and to allow the second and third floors as a separate one-family residential use on property now located in the R-1 One-Family Zone, which was then approved by the Board of Commissioners.

Mr. DeNiscia stated that the property is particularly suited for the proposed two-family residential use given its long-standing use as two separately functioning units. In addition, utilization of the first floor as a residential use represents a less intensive use than a medical use. The proposed use advances the purposes of the Municipal Land Use Law, specifically encouraging appropriate use of land which promotes the general welfare; and provides sufficient space in an appropriate location for residential use in order to meet the needs of all New Jersey citizens and encourages coordination of procedures resulting in more efficient use of land. Approval of this application is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. The property had a long-standing use as two separate and distinct units at the time the

property was rezoned from R-2 to R-1 on or before 1970. Approval is consistent with the land use goals of the 2000 Master Plan Reexamination Report specifically to “maintain Montclair as a desirable residential community accommodating a range of population and income groups. The racial, income and age mix of Montclair’s citizens is desirable and representative of this region of the State, and land use policies should seek to preserve this range and balance.” The property is located in an area of mixed uses including one, two and three-family residences, commercial uses and a school.

Exhibits marked:

- A-1 Photographs of the property and neighborhood and a land use map of the area on a board
- A-2 27 Photographs of the interior and exterior of the property
- A-3 Floor Plans

The Board questioned Mr. DeNiscia. Laurena White, Licensed Realtor working for the applicant, was sworn and answered questions based on her knowledge of the property and the neighborhood. She has reviewed available Township records for some of the nearby lots. The property abuts a lawful nonconforming two-family house in the R-1 Zone to the south, a conforming one-family house in the R-1 Zone to the north, and a conforming two-family house in an R-2 Zone to the east. She also stated that she took the photographs of the interior of the dwelling last year when the dwelling was vacant. The 2 dwelling units are currently occupied. She stated that from her knowledge, the property has been used for 2 dwelling units since 1971. Gary R. Lewis was sworn and stated that he purchased the property in December 2006 believing it contained a lawful two-family dwelling and has paid property taxes for the two-family use.

No questions or comments were offered from the public. Mr. Gille summarized the application. The Board discussed the application and determined that the requested variance could be approved. Based on the testimony provided, and the Board’s particular knowledge of area land uses and local conditions, the requested use variance is not inconsistent with the character of the development in the area and will not cause substantial adverse impact to area properties. On motion by Mr. Whipple, seconded by Mr. Burr, the application was approved, subject to the following condition:

1. The applicant shall be responsible for payment of all escrow fees incurred in connection with review of this application.

The application of **Paul & Carla King, 6 Glenside Terrace** was announced. Paul King sworn and described the application to construct an addition onto the rear of the dwelling. A one story addition is proposed at the rear of the dwelling, aligned with the northerly side of the dwelling. The addition would contain part of an expanded kitchen and a mudroom. An existing deck in the same location as the proposed addition would be removed. A stone terrace at grade level would be constructed in the rear yard. The existing northerly side yard setback of the dwelling is nonconforming, measuring 4.9 feet, where a minimum of 6 feet is required. The kitchen addition would extend the

nonconforming northerly side yard setback an additional 9 feet further into the rear yard and requires a variance

The Board questioned the applicant. No questions or comments were offered from the public. The Board discussed the application and determined that the requested variance could be approved. The addition is aligned with the existing nonconforming northerly side yard setback of the dwelling. Considering the limited size and scale of the addition, the 4.9 foot side yard setback poses no detriment to an adjoining property owner. On motion by Mr. Whipple, seconded by Mr. Burr, the application was approved.

The application of **Joseph Rispo, 201 Highland Avenue** was announced. Mr. Rispo, and John Brower, Architect, was sworn. Mr. Brower stated that he did not prepare the plans submitted, but that he is assisting Mr. Rispo with the application. Mr. Brower described the application. The property contains a single family dwelling. There is no garage on the property. The existing driveway leads to the southerly side of the dwelling. The lot measures 116.9 feet in width and 174.5 feet in depth. The property slopes downward from Highland Avenue. A one-story addition is proposed at the southerly side of the dwelling to contain an attached garage and a mudroom. The addition measures 23 feet wide by 25 feet long. Portions of existing asphalt paving would be removed and there would be a net decrease in the impervious surface coverage. The maximum permitted principal structure width for the subject property is 75.9 feet, or 65 percent of the lot frontage width. The width of the existing dwelling complies, measuring 74.8 feet in width, or 63.9 percent of the lot frontage width. The width of the dwelling would be increased to 81.1 feet, or 69.4 percent of the lot frontage width. A variance is requested to permit the width of the principal structure to exceed the maximum permitted width. No other variances are required.

The Board questioned the applicant. Mr. Rispo stated that due to the sloping grade down from the street and the low height of the garage addition, it is hardly visible from the street. Mr. Rispo stated that the interior size of the garage was designed to also allow for storage of trash and recyclable cans, which are currently kept outdoors on the driveway, visible to the neighbors. He also stated that he could reduce the width of the garage to 21 feet. No questions or comments were offered from the public.

The Board discussed the application and determined that the variance could only be granted if the width of the addition was reduced to a maximum of 21 feet, which produces an overall dwelling width of 79.1 feet, or 67.7 percent of the frontage width. Subject to this modification, the variance can be justified due to the existing physical characteristics of the property, such as the position of the dwelling on the lot and the topography of the lot, and the variance would not have a negative impact on nearby properties or the streetscape. On motion by Mr. Fleischer, seconded by Mr. Burr, the modified application was approved, subject to the condition below.

1. The width of the garage addition shall be limited to a maximum of 21 feet.

A superseding motion to approve the application as submitted was made by Mr. Whipple, and seconded by Mr. Reynolds, but failed to pass, only receiving 2 affirmative votes and 5 negative votes.

The application of **Raphaela Niehausen, 394 North Fullerton Avenue**, was announced. Ms. Niehausen and Tom Powers, owners of the property, and Paul Sionas, Architect, were sworn. Mr. Powers described the application to construct an addition to the second floor and attic at the southerly side of the dwelling. He stated that the intent is to add a master bathroom on the second floor since the house only has one bathroom. A reading nook is included in the attic area of the addition. Ms. Niehausen also described the application and stated that she has several photographs of existing dwellings in the neighborhood to show that their plan is in keeping with the character of the homes in the neighborhood.

Exhibits marked:

A-1 to A-7: Photographs of dwellings in the neighborhood

Mr. Sionas described the application. The lot measures 57.7 feet in lot frontage width and 150 feet in depth. The maximum allowable principal building width for the subject property is 37 feet 6 inches, or 65 percent of the lot frontage width of 57.7 feet. The width of the existing first floor of the dwelling is nonconforming, measuring 41 feet 3 inches. The second floor and attic level of the dwelling are currently conforming measuring 31 feet 10 inches in width. The proposed addition at the southerly side of the dwelling would extend the width of the second floor and attic floor an additional 9 feet 5 inches, to align with the southerly side wall of the existing first floor, and match the nonconforming width of 41 feet 3 inches of the first floor, and requires a variance. He also stated that the addition requires a variance for a side yard setback of less than 10 feet from the southerly side property line, where the existing nonconforming side yard setback of the first floor is 8.15 feet, which would be matched with the addition.

Exhibit marked:

A-8 Elevation drawing by Sionas Architecture dated February 7, 2013

The Board briefly questioned the applicant. Chair Harrison called for questions or comments from the public. Michael Roberts, 396 North Fullerton Avenue, was sworn and stated his support for the application.

The Board discussed the application and determined that the requested variances could be approved. The southerly side yard setback of the addition will be in keeping with the side yard setback of the existing first floor. The impact of the extended width of the second floor and attic is mitigated by design of the addition, which is set back from the front of the first floor and has a lower roofline height than the existing roof. The addition is modest in size and provides standard modern improvements for family style living. The design and scale of the dwelling would remain in keeping with the other

dwellings in the neighborhood, and the variances pose no detriment to nearby properties or the streetscape. On motion by Mr. Fleischer, seconded by Mr. Whipple, the application was approved.

The application of **Richard & Tammy Bakos, 122 Elm Street** was announced. The applicants, and Diana Coronato, Architect, were sworn. Ms. Bakos described the application. Dormer additions are proposed onto the third floor at the front and rear of the dwelling. The dormer at the front of the dwelling complies with the zoning ordinance. A variance is requested for the width of the dormer addition on the third floor at the rear of the dwelling. She stated that the house is small in size. The proposed dormers help to accommodate the use of the third floor for a bedroom, a bathroom, and extra storage and help to make the house more usable for family style living. Ms. Coronato described the plan. The width of the dwelling at the third floor level is 24 feet 2 inches. The maximum allowable width of a dormer or the aggregate width of multiple dormers, on any one side of the dwelling is 12 feet 1 inch. The proposed dormer at the rear of the dwelling would measure 18 feet 1 inch, and thereby creates a 3rd story at the rear of the dwelling.

The Board questioned the applicant. Ms. Bakos stated that the rear dormer addition is not visible from any nearby street, and that their house would still be one of the smallest in the neighborhood. Mr. Bakos stated that the location of the third floor bathroom was chosen to align with the second floor bathroom. No questions or comments were offered from the public. The Board discussed the application and determined that the variance could be approved. The dwelling is relatively small in size and the proposed improvements help to modernize the dwelling for family style living. The design of the dormer at the rear of the dwelling is based on the existing conditions of the dwelling. The dwelling would remain in keeping with the size and scale of the dwellings in the neighborhood and the plan poses no detriment to an adjoining property owner or the streetscape. On motion by Mr. Whipple, seconded by Mr. Burr, the application was approved.

On motion by Mr. Whipple, seconded by Mr. Tsai, the meeting was adjourned.