

MINUTES OF THE BOARD OF ADJUSTMENT
January 20, 2010

PRESENT: Chair Harrison, Mr. Burr, Ms. Cockey, Ms. English, Mr. Kenney, Ms. Holloway, Mr. Susswein and Mr. Whipple; also, Mr. Sullivan, Esq., and Mr. Charreun, Assistant Secretary

ABSENT: Vice Chair Fleischer and Ms. Kadus, Secretary

Assistant Secretary 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.

Election of Officers & Appointment of Professional Staff

On motion by Ms. English, seconded by Mr. Whipple, Mr. Harrison was re-elected as Chair, Mr. Harrison abstaining. On motion by Ms. English, seconded by Mr. Mr. Whipple, Mr. Fleischer was re-elected as Vice Chair. On motion by Ms. English, seconded by Mr. Mr. Whipple, Ms. Kadus was elected as Secretary and Mr. Charreun was re-elected as Assistant Secretary. On motion by Ms. English, seconded by Mr. Whipple, the following Resolution re-appointing Mr. Sullivan as Board Attorney at the indicated rate for the 2010 year was adopted:

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-71b, provides that the Board may employ legal counsel, experts and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain an attorney to provide legal services including, but not limited to advice and consultation, attendance at meetings, preparation of documents and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

WHEREAS, the appointment of the attorney may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because legal services are rendered by persons authorized by law to practice their recognized profession, whose practice is registered by law and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of competitive bid.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that it does hereby appoint Michael D. Sullivan, Esq. as Board Attorney to serve from January 1, 2010 to December 31, 2010 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the officers of the Board of Adjustment are hereby authorized and directed to sign an Agreement in connection with such services, which agreement shall be on file with the Township Clerk; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Township Clerk.

On motion by Ms. English, seconded by Mr. Whipple, the following Resolution re-appointing Mr. Watkinson as Board Engineer at the indicated rate for the 2010 year was adopted:

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-71b, provides that the Board may employ legal counsel, experts and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain an engineer to provide engineering services including, but not limited to advice and consultation, attendance at meetings, preparation of reports and other services as may be required from time to time; and

WHEREAS, the appointment of the engineer may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because engineering services are rendered by persons authorized by law to practice their recognized profession, whose practice is registered by law and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of competitive bid.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that it does hereby appoint W. Thomas Watkinson as Board Engineer to serve from January 1, 2010 to December 31, 2010 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the officers of the Board of Adjustment are hereby authorized and directed to sign an Agreement in connection with such services, which agreement shall be on file with the Township Clerk; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Township Clerk.

The application of **Falad Properties, LLC, 39-41 North Fullerton Avenue, David A. Faloni, Sr. and Molly Cotton, 30 Forest Street, and Cofal Properties, LLC, 32 Forest Street, 43 No. Fullerton Ave, and 45 No. Fullerton Ave** was adjourned to the February 17, 2010 regular meeting of the Board, at the applicants' request. Revised plans will be submitted and public notice will be completed. The Board was granted an extension of time on the application.

Chair Harrison was recused. Mr. Sullivan called the application of **David & Carrie Greenbaum, 91 Lloyd Road**. Martin Newmark, Esq., appeared for the applicants and Steven Greenberg, Esq. appeared for the owner of the adjoining property located at 99 Lloyd Road. Mr. Newmark requested that the application continue at the March 17, 2010 regular meeting. The request was granted and the Board was granted an extension of time by the applicants.

Chair Harrison rejoined the Board and called the variance application of **Carlos Cubeddu, 293 Park Street**. Mr. Whipple was recused. The applicant was present and Julio Figueroa, Architect, was sworn. The property is an interior lot located in the R-1 One-Family Zone and contains a 2½-story single-family dwelling. The property measures 105.25 feet in frontage width and 21,037 square feet in area. The property survey depicts the location of a previously existing detached two-car garage in the rear yard that was recently demolished. The demolition of the detached garage as well as some preliminary construction of a new detached garage has occurred without the required construction permits and zoning review from the Township. The applicant is seeking a variance to reconstruct a detached garage on the existing footings and foundation. The proposed garage will have the same dimensions and height as the recently demolished garage. The footprint of the detached garage measures 20 feet 3 inches wide by 20 feet 3 inches long. The garage has a nonconforming side yard setback of 3.20 and 4.05 feet from the northerly side property line, as measured from the front and rear corners of the garage, respectively. A variance is requested in that a northerly side yard setback of not less than 6 feet is required and side yard setbacks of 3.20 and 4.05 feet are proposed.

The Board questioned Mr. Figueroa. All roof leaders on the proposed garage would be directed away from the northerly side property line. Chair Harrison called for questions and comments from the public. Steven Mazzari, 297 Park Street, was sworn and stated that he lives next door closest to the garage and that he is in favor of the application. The Board discussed the application determined that the requested variance could be granted. The garage is simply being replaced and there northerly side yard setback is remaining the same. The proposed northerly side yard setback is also in keeping with or greater than that of similar properties in the neighborhood. Subject to the condition imposed below, the application would have no substantial detriment to the public good. On motion by Ms. English, seconded by Mr. Burr the application was approved, subject to the following condition:

1. All roof leaders on the proposed garage shall be directed away from the northerly side property line.

Chair Harrison called the application of **The Mental Health Association of Essex County, Inc., 354 Orange Road**. Craig Alexander, Esq. appeared as attorney for the applicant. Robert Davison, Executive Director of The Mental Health Association of Essex County, was sworn and described the application to construct a new building containing 12 dwelling units to be utilized as supportive housing for individuals with mental illness and a parking area for 22 vehicles. He described the organization in detail and the proposed use of the building. He stated that the program associated with the propose use is licensed by the State of New Jersey, but that the proposed facility would not be a State licensed facility. He clarified how the program for supportive housing for individuals with mental illness would operate and the goals of the program. Each tenant would be visited by the support staff on 3 or 4 occasions per week for approximately one hour at a time. The facility is not a nursing home or an assisted living facility. The proposed parking area and driveway would be more than sufficient for the proposed use.

The Board questioned Mr. Davison. The target consumers for the proposed residential facility are individuals with mental illness as a primary disability. They would not screen the individuals for alcoholism or drug addiction. If an individual with mental illness selected for the program also suffers from alcoholism or drug addiction, they would seek to ensure that the individual gets the help needed for that problem. The tenants are evaluated prior to selection for the program to ensure that they are capable of living independently with the specific type of support provided by the program. There would be a visit from at least one member of the support staff to the site on a daily basis for about one hour to see one tenant or another. The intent of the program is to provide permanent housing for the tenants. They have considered other sites in Essex County. They like the proposed location because it is a large vacant lot, the site is convenient to public transportation and shopping, and the price of the property is within their budget. Mr. Susswein arrived at the meeting. Chair Harrison called for questions from the public.

Joel Chromes, 86 Willowdale Avenue, asked about the tenants' use of public transportation.

Clarence Leach, 347 Orange Road, asked what would happen if a tenant needed to be re-hospitalized.

Guy Whitlock, 30 Gates Avenue, asked about the screening process for criminal backgrounds.

Toni Whitlock, 30 Gates Avenue, asked if the tenants would be reliant on psychiatric medications, and if any tenants could be considered dangerous if not taking their medications properly.

Annette Strickland, 33 Draper Terrace, asked about the funding and financing of the project and program.

Audrey Hawley, 17 Grenada Place, asked about alternative locations and where the potential tenants are presently living.

David Cummings, 8 Pleasant Avenue, asked if the proximity of the site to nursery schools and public parks is something that was considered.

William Scott, 23 Cedar Avenue, asked who the current owner is, and if there has ever been an issue with gunfire at any of their other locations.

Cynthia Paige, 25 Pleasant Avenue, asked if most of their tenants could be expected to take their prescribed medications, and how the applicant would handle a tenant who does not adhere to their treatment.

Denise Dunovant, 86 Willowdale Avenue, asked if it would be necessary for some type of on-site supervisory staff or security.

Jarvis Hawley, 17 Grenada Place, asked about the applicant's procedures in identifying a prospective site for facility like the one proposed, and what type of professional guidance they utilize in making a decision on selecting a location. He also asked for details on the potential P.I.L.O.T. that the applicant would apply for if they become the owners of the property.

John Curtis, 15 Hollywood Avenue, asked how many visitors would be expected to the site on a daily basis.

Annette Strickland, 33 Draper Terrace, asked if any of the potential tenants are currently located in Montclair. She also asked if the proposed housing would reduce Montclair's overall affordable housing obligation.

Brian Dennis, 77 Pleasant Avenue, asked how the facility would benefit the single-family home owners in the immediate neighborhood.

Lynne Williams, 357 Orange Road, asked how the program handles existing consumers with children, or those who may become a parent while a tenant.

Luther Flurry, 14 Madison Avenue, asked how tenants would spend their days since some may not be able to work. He also asked about the site selection process.

William Scott, 23 Cedar Avenue, asked about if the applicant had reviewed the Housing Element of the Master Plan.

Audrey Hawley, 17 Grenada Place, asked if the facility would stigmatize the tenants because no other dwelling units in the facility are for individuals not suffering from mental illness.

Nathaniel Johnson, 91 Harrison Avenue, asked if it would be necessary to have some type of full-time on-site staff person.

Denise Dunovant, 86 Willowdale Avenue, asked how the applicant handles a tenant who decides to no longer accept the services provided by the program.

Ronald Shaljian, Esq. appeared on behalf of DH Development, LLC the owner of the adjoining vacant lot to the south of the subject property, known as 360 Orange Road. Mr. Shaljian questioned Mr. Davison. Mr. Davison stated that they did not approach the owner of 360 Orange Road to inquire about purchasing that lot. He responded to questions about the use of parking area. He reiterated that there is no need for full-time security staff.

The Board questioned Mr. Davison again. He answered questions about the Essex County plan for affordable housing for individuals with mental illness. A short recess was taken.

Jeff Cadoff, PE, was sworn and provided his qualifications. He described the plan in detail including the proposed building, driveway and parking area, and the landscaping and lighting. He described the bulk requirements in the R-1 Zone and stated that the proposed building would be in compliance. The only bulk variances requested are for the number of parking spaces provided and for not having some of those spaces in a garage. A parking area for 15 vehicles is proposed in the southerly side yard of the proposed building. A new 20-foot wide driveway is proposed from Orange Road. He described the grading and drainage plan for the site, provided information on the permeable pavers proposed for the surface of the parking lot, and addressed the Board Engineer's comments on the revised plan. He described the applicant's plan for the public sidewalk in front of the property and stated that trash removal from the site would be done by a private hauler. He described the existing and proposed landscaping and lighting in detail. He stated that the lighting has been designed to light the necessary areas and if certain pole-mounted fixtures were reduced in height, the intensity of the light would have to be increased. He also described the plan for tree removal, and the proposed walking path and basketball hoop.

Marked into evidence was:

A-1 Revised Site Plan drawing in color dated January 6, 2010

A-2 Aerial Photograph depicting the site, dated November 9, 2009

The Board questioned Mr. Cadoff. He stated that the decision to leave portions of bluestone on the public sidewalk was arbitrary. He stated that bollard style lighting fixtures would not adequately light certain areas of the parking area without increasing the intensity of the light. They have not yet considered a plan with more than 1 smaller building. He also answered several detailed questions on the grading plan and tree removal and possible revisions to the lighting plan. Chair Harrison stated that the public could question Mr. Cadoff at the next meeting. There some brief discussion and Chair Harrison announced that the application would be continued at a special meeting on February 10, 2010 and that no further notice would be given. No extension of time was necessary.

On motion by Mr. Susswein, seconded by Ms. Cockey, the **Minutes of the September 16, 2009** regular meeting were adopted as modified, Ms. English, Ms. Holloway, and Mr. Whipple abstaining. On motion by Mr. Susswein, seconded by Mr. Whipple, the following Resolution memorializing the Board's decision on the site plan and variance application of **Immaculate Conception High School, Codey Field - 267 Orange Road** was adopted, as modified, Mr. Burr abstaining:

WHEREAS, Immaculate Conception High School of Montclair, Inc., did make application to the Montclair Township Board of Adjustment for site plan approval, variances and an exception to demolish the existing field house adjacent to Draper Terrace and construct a new field house along the easterly side of the property closest to Sears Place on property designated as Lot 21 in Block 3006 on the Montclair Township Tax Map and located in the R-1 Zone;

WHEREAS, the applicant requested relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70c(1) and (2) to permit a rear yard setback from the easterly property line of 26 feet where 171.9 is required pursuant to Montclair Code Section 347-45D.
2. A variance pursuant to N.J.S.A. 40:55D-70c(2) to permit a 5 foot high "non-open end" fence and gate which exceeds the height limitation of 4.5 feet pursuant to Montclair Code Section 347-27A(2).
3. An exception from Montclair Code Section 281-9I to permit a two-way driveway width of 12 feet where 18 feet is required.

WHEREAS, the applicant submitted a site plan, Sheets C-1, C-3 through C-6 dated April 15, 2008 revised through August 25, 2009 amended by Sheet C-2 dated April 15, 2008 revised through December 16, 2009 prepared by B. F. Langan Consultants, LLC and architectural plans, Sheet A-1 dated October 2, 2006 revised through December 4, 2009 prepared by Dassa Haines, Architectural Group; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on December 16, 2009 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 a corner lot located at the intersection of Orange Road and Draper Terrace to the west and abutting the terminus of Sears Place to the north. The property measures 48,000 square feet in area, contains frontage of 272 feet on Orange Road and 205.05 feet on Draper Terrace. The property contains frontage of 19 feet at the terminus of Sears Place. The property is improved with a lawfully existing nonconforming athletic field and field house utilized by Immaculate Conception High School.

2. The existing field house located adjacent to Draper Terrace was originally constructed as a single family home approximately 100 years ago. The two story structure consists of approximately 3,200 square feet and was first used as a field house in 1941. The building is no longer suitable for its intended use based upon the size and arrangement of the rooms, unsuitable rest rooms and lack of handicap accessibility. Moreover, the structure has deteriorated over time and currently is in very poor condition.

3. By resolution adopted October 21, 2009, the Board granted a use variance pursuant to N.J.S.A. 40:55D-70d(1) to demolish the existing field house and construct a new field house subject to the following conditions:

1. This approval is subject to site plan approval at which time the Board will consider any bulk variance sought by the applicant.

2. The field house shall not exceed 3,700 square feet as a one story structure and 4,045 square feet as a two story structure. At the time of site plan review, the applicant shall submit alternate plans depicting a one and two story structure.

3. With the exception of the bathrooms that are accessible from the exterior of the building, use of the field house shall be limited to the school owner of the subject property.

4. The applicant shall conduct a pre-application meeting with the DEP to resolve the following issues:

a. Confirm the existing field house cannot be demolished and rebuilt in its current location, including the paved area located behind the existing field house.

b. Review the approximation method used by the applicant's engineer with DEP staff and seek guidance as to whether doing the full evaluation of the flood elevation that would otherwise be required by the Flood Hazard rules is likely to produce a result that would significantly lower the flood elevation on the western side of the field.

c. Can the access road be constructed from Orange Road pursuant to the Flood Hazard regulations if the Board denies the proposed access from Sears Place for public safety reasons?

4. In response to condition 4 of the Board's prior approval, the applicant conducted a pre-application conference with the DEP with the following results:

a. DEP confirmed Immaculate's position that the existing field house can be demolished and rebuilt at its current location in the floodway, but only if all construction takes place in the existing footprint. N.J.A.C. 7:13-11.5(e)(3). Additionally, DEP advised that reconstruction at the current location in the floodway would require the field house to be elevated at least one foot above the flood hazard area design flood elevation. Reconstruction of the field house at its current location in the floodway would be cost-prohibitive and impractical. Elevating the building would significantly increase construction costs and reconstruction in the existing footprint would limit Immaculate to a two-story field house which is not practical for the use. Moreover, development in the flood hazard area should be avoided, especially where a feasible and practicable alternative exists.

b. The flood hazard elevations were delineated in accordance with the Flood Hazard Control Act rules using Method 3 (FEMA fluvial method) as described at N.J.A.C. 7:13-3.4(e). DEP confirmed that this is an acceptable method to calculate flood hazard elevations and stated that DEP will not, and legally could not, require a stream study. The testimony presented by the applicant's engineer established that this determination of the flood hazard area is substantially accurate and that an additional stream study is unnecessary and cost-prohibitive. The applicant's engineer estimated the stream study cost to be approximately \$45,000 and would take several months.

c. Because any proposed access from Orange Road would cross the floodway, it would be subject to the Flood Hazard Control Act rules. Accordingly, any proposed access from Orange Road would have to be elevated one foot above the flood hazard area elevation and have no change to the existing floodway elevations. Essentially a bridge would be required for the portion of the access roadway that crosses the floodway, which would be cost-prohibitive. Additionally, DEP confirmed that any location within the flood plain would require the building footprint to be constructed one foot above the flood plain's elevation and any fill to be compensated by removal of material within the flood plain. This would be cost prohibitive. The most suitable location for the

proposed field house is the easterly side of the property closest to Sears Place, not the flood hazard area.

5. The Board's prior approval permitted a two story 4,045 square foot field house and required the submission of plans for both a one story and two story field house. The applicant elected to present only a one story proposal. The Board accepted the applicant's testimony that development of a two story structure was impractical and would not meet the applicant's needs.

6. The Board adopted the conclusions of the applicant's planning witness who found the proposed location of the field house is the most appropriate and is consistent with the intent and purpose of the 1985 Master Plan and 2006 Master Plan Reexamination Report and Zoning Ordinance. Specifically, approval of this unique application provides for the long term preservation of open space and protection of the stream buffer.

7. The applicant argued the property is a "through lot" in accordance to Section 347-2 and the easterly setback should be considered a side yard in conformance with the Ordinance. The Board, however, determined that the unique configuration of this lot did not meet the definition of a "through lot" under the Ordinance and thus the easterly setback constituted a rear yard. The Board determined the location of the proposed field house was the most appropriate given the unique shape of the property, flood hazard constraints and the existing location of the field results in peculiar and exceptional practical difficulties and exceptional and undue hardship upon the applicant. Furthermore, the Board determined that approval of the variance permitting replacement of the existing deteriorated and outdated field house with a modern visually attractive structure with greatly improved functionality at this location is consistent with the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et seq. Specifically, approval of the application constitutes appropriate use of the property in a manner which will promote the general welfare (-2a); provides adequate light, air and open space (-2c); provides sufficient space in an appropriate location for the proposed use (-2g) and promotes a desirable visual environment (-2i).

8. The applicant sought approval to permit a 5 foot high "non-open end" fence and gate which exceeded the height limitation of 4.5 feet contained in the Ordinance. The Board determined that with the exception of the area around the dumpster, the applicant failed to prove any purposes of the Municipal Land Use Law would be advanced and no public benefit would result.

9. The applicant's proposal includes a two-way driveway to Sears Place which measures 12 feet wide at its narrowest point and widens to 20 feet where 18 feet is required by Ordinance. Use of this driveway is limited to service vehicles and emergency vehicles only in accordance with this resolution. As a result, the Board determined that based upon the unique circumstances relating to the driveway, compliance with the Ordinance is impracticable and unnecessary and will exact undue

hardship upon the applicant and the requested exception is reasonable and within the general purpose and intent of the Site Plan Ordinance.

10. The Board received a report from the Montclair Fire Department dated December 7, 2009 containing a number of recommendations. The applicant agreed to comply with the recommendations contained therein, however, took issue with comment 4 which required the structure to be fully sprinklered. The applicant took the position that such a requirement should only be imposed if required by applicable building code standards. The Board, however, determined that the building should be fully sprinklered based upon the proposed driveway width and configuration from Sears Place and limited access to the building provided for fire fighting equipment.

11. Based upon the conclusions of the applicant's planning witness, revisions to the site plan and conditions imposed herein, the Board determined that approval of this application would not result in substantial detriment to the neighborhood and would not substantially impair the intent and purpose of the Zoning Ordinance. Sears Place is currently used to access the parking lot of the existing apartment complex on Lincoln Street and the increase in traffic resulting from this use would be negligible. The size and scale of the structure as revised would not result in a substantial visual impact on area property owners.

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

WHEREAS, the Board, based on the aforementioned findings, concluded that with respect to the rear setback variance 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).

WHEREAS, the Board, based on the aforementioned findings, concluded that with respect to the fence height variance (except around the dumpster) the applicant did not prove that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and failed to prove that the benefits of the deviation would substantially outweigh any detriment and failed to 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 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 Immaculate Conception High School of Montclair, Inc., for site plan approval to demolish the existing field house and construct a new field house, rear yard setback variance and exception relating to driveway width is hereby approved subject to the following conditions:

1. Access to the subject property from Sears Place shall be limited to service vehicles and emergency vehicles only.

2. The applicant shall provide for trash pick-up in the area of the field, bleachers and field house after all football games and at least once a week otherwise.

3. With the exception of the bathrooms that are accessible from the exterior of the building, use of the field house shall be limited to the school owner of the subject property.

4. Use of the field house shall be limited to 8:00 a.m. to 8:00 p.m. exclusive of coaches.

5. Lighting of the field is prohibited.

6. Use of the field shall be limited to daylight hours from 8:00 a.m. to 8:00 p.m.

7. The proposed light fixture adjacent to the Manning residence at 16 Sears Place shall be eliminated.

8. The area of the existing field house including the adjacent paved area shall be revegetated including the planting of shrubs and trees.

9. Prior to construction, the applicant shall obtain approval from the Township to make improvements in the right-of-way.

10. The applicant shall provide an Operations and Maintenance Manual for the proposed stormwater management system subject to review and approval by the Board Engineer.

11. No advertisements shall be permitted on the scoreboard.

12. The parking of construction vehicles and equipment shall not be permitted on the public streets.

13. The plans shall be revised to reduce the size of the field house not to exceed a 3,700 square foot building footprint measured to the outside faces of the exterior walls.

14. The proposed paved turnaround area shall be set back a minimum of 4 feet from the property line.

15. The applicant shall comply with conditions 1 through 4, 6 and 7 contained in the Board Engineer's review memorandum dated August 31, 2009. With reference to condition 5, the outlet structure shall be designed so as not to create a wet basin.

16. The proposed dumpster shall be relocated between the paved area and field house.

17. Additional landscaping including trees and shrubs shall be placed on the easterly side of the paved driveway area.

18. The southernmost red maple along the easterly property line shall be relocated further to the north outside the root zone of the adjacent tree.

19. The applicant shall comply with the recommendations contained in the memorandum from the Montclair Fire Department dated December 7, 2009.

20. The site plan shall be revised to be consistent with Sheet C-2 dated April 15, 2008 revised December 16, 2009 prepared by B. F. Langan Consultants, LLC and marked as Exhibit A-27 at the public hearing said revisions are subject to review and approval by the Board Engineer.

21. The security gate at the Sears Place driveway access shall be closed and locked at all times except to provide access for service vehicles and emergency vehicles only.

22. Lighting associated with the field house shall be shielded so as not to spill onto adjacent properties and shall be turned off daily no later than 8:30 p.m.

23. The plans shall be revised to provide a conforming fence except around the dumpster.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Montclair that the within application of Immaculate Conception High School of Montclair, Inc. for a fence height variance is hereby denied.

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

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