

**MINUTES OF THE BOARD OF ADJUSTMENT  
MARCH 18, 2009**

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

ABSENT: Mr. Franco, 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.

On motion by Mr. Whipple, seconded by Mr. Susswein, the **Minutes of the January 21, 2009** regular meeting were adopted, Mr. Fleischer and Mr. Kenney abstaining. On motion by Mr. Fleischer, seconded by Mr. Whipple, the **Minutes of the January 28, 2009** special meeting were adopted as modified, Ms. Cockey and Ms. English, abstaining.

On motion by Mr. Fleischer, seconded by Ms. English, the following Resolution memorializing the approval of the application of **Michael & Ariane Duarte, 33 Walnut Street** was adopted:

**WHEREAS**, Michael and Ariane Duarte, did make application to the Board of Adjustment of the Township of Montclair to expand an existing restaurant by converting the adjacent first floor apartment to restaurant use on property located at 33 Walnut Street and designated as Lot 18 in Block 4206 in the R-2 Two Family Zone; and

**WHEREAS**, the applicants requested variance relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(2) to permit expansion of a preexisting nonconforming use contrary to Montclair Code Section 347-112.
2. A variance pursuant to N.J.S.A. 40:55D-70c for failure to provide eight additional parking spaces required by Montclair Code Section 347-101.

**WHEREAS**, the applicants submitted a survey dated April 7, 2006 and site plan and floor plan, Sheets SP-1 and A-1 dated May 20, 2008 prepared by Sionas Architecture, P.C.; and

**WHEREAS**, this matter came on to be heard at meetings of the Board of Adjustment held on January 21 and February 18, 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 contains 7,960 square feet in area and is a corner lot located at the intersection of Walnut and Pine Streets. The property is improved with a two story mixed use commercial and residential building with a parking lot accessed from Pine Street containing seven parking spaces.

2. The application proposes expansion of the existing restaurant by converting the adjacent apartment into a restaurant totaling 1,681 square feet of floor area. The plan calls for a horizontal expansion of the existing kitchen area and the existing dining area into the adjoining apartment. An ADA compliant restroom is proposed adjacent to the existing restroom.

3. The building was constructed in 1926 and the predominant first floor use has been commercial. Conversion of the existing apartment to restaurant use restores the long-standing commercial use on the first floor which constitutes appropriate municipal action in a manner which promotes the general welfare and provides sufficient space in an appropriate location for the proposed use consistent with N.J.S.A. 40:55D-2a, g.

4. The interior dining room accommodates 18 seats and a total of 48 seats are proposed. This represents an increase in the parking requirement of ten spaces minus the two spaces previously associated with the apartment, resulting in an additional on-site parking requirement of eight parking spaces pursuant to Montclair Code Section 347-101. The applicant is unable to provide additional on-site parking due to the existing improvements on site which results in peculiar and exceptional practical difficulties and undue hardship upon the applicants. The Board determined there is ample available parking on area streets which can accommodate the parking demand generated by this application.

5. Based upon the Board's particular knowledge of local conditions, the within application is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

6. Approval of this application is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance which seeks to encourage commercial activity to provide needed services at an appropriate location.

**WHEREAS**, the Board, based on the foregoing findings, concluded that the applicants 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 applicants 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 the applicants 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 Michael and Ariane Duarte for variances to permit expansion of a preexisting nonconforming use and insufficient on-site parking, is hereby approved subject to the following conditions:

1. Hours of operation (exclusive of off-premises catering) shall be limited as follows:
  - a. 5:30 p.m. to 10:00 p.m. six days a week representing the time in which customers may arrive to be seated.
  - b. Brunch/lunch special events/private parties shall be limited to 12:00 p.m. (noon) to 4:00 p.m. and shall not exceed two per week (Sunday through Saturday) and four in any calendar month.
2. A maximum of 48 interior seats is allowed.
3. The applicants shall install an enclosure around the dumpster and recycling container(s) which shall be approved by the Planning Department.
4. This approval is limited to the use as outlined herein without a liquor license. Use of the property with a liquor license shall require prior approval from this Board.
5. No expansion of existed permitted outside seating either in area or number shall be permitted and the applicants shall comply with all applicable ordinances regulating outdoor seating.

**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. Fleischer, seconded by Ms. English, the following Resolution memorializing the approval of the application of **Daniel Gerdes, 17 Carolin Road** was adopted:

**WHEREAS**, Daniel Gerdes, as owner, did make an application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA 40:55D-70c to allow a westerly side yard setback less than required pursuant to **Montclair Code Section 347-46A(2)(a)** and rear yard setbacks less than required pursuant to **Montclair Code Section 347-46A(3)** in connection with the construction of a detached garage on

property designated as Lot 38 in Block 3504 on the Township Tax Map and located in the R-1 One-Family Zone; and

**WHEREAS**, the applicant submitted a property survey dated October 12, 2007, and a plot plan and elevations of the proposed detached garage prepared by the applicant; and

**WHEREAS**, this matter came on to be heard at a meeting of the Board of Adjustment held on February 18, 2009 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 Board carefully reviewed the testimony presented and established the following findings:

1. The subject property is an interior lot located in the R-1 One Family Zone, measuring 60 feet in width and 7,800 square feet in area. The property has an irregularly shaped rear yard, which extends deeper at the westerly side of the rear yard. The property contains a single-family dwelling and a detached garage in the northwesterly rear corner within the deepest section of the rear yard.

2. The existing detached garage is in poor condition due to its age and would be demolished. The existing garage is approximately 20 feet 6 inches wide by 22 feet 8 inches long and has a nonconforming side yard setback of 0.84 feet from the westerly side property line. The garage also has a nonconforming rear yard setback of 2.47 feet and a conforming setback of 6.57 feet from the section of the rear property line that runs along the easterly side of the garage.

3. The proposed garage is smaller than the existing garage, measuring 20 feet wide by 22 feet long, and is proposed to be shifted to the west. The westerly side yard setback would be increased to 3 feet 6 inches, and the rear yard setback would be increased to 3 feet 7 inches. As a result of the shifting of the proposed garage to the west, the conforming setback of 6.57 feet from the section of the rear property line that runs along the easterly side of the garage would be reduced, to a nonconforming 4 feet 7 inches. Variances are requested and that minimum side and rear setbacks of 6 feet are required. A conforming height of 13 feet 8 inches is proposed. The proposed garage complies with all other zoning requirements.

4. At the hearing, Christopher Skutch, owner of 94 Wildwood Avenue, Block 3504 Lot 21, which abuts the rear of the subject property produced a survey of his property prepared by Richard J. Hingos, Inc. dated September 8, 2008 which was marked as Exhibit A-4. The survey depicted a rear yard overlap of 9 feet wide and 14 feet in depth onto the subject property which included a portion of the existing garage. The overlap is not depicted on the Township Tax Map or on the applicant's survey prepared by Richlan, Lupo and Associates, Inc. dated October 12, 2007 which was marked as Exhibit A-3. At the hearing, Mr. Skutch indicated a willingness to work with the applicant to resolve the survey dispute and convey his interest in the overlap portion of the property to the applicant, if necessary.

5. In considering the application, the Board determined that subject to compliance with the conditions below, the application can be approved. The garage is being slightly reduced in size and notwithstanding the reduction in the setback from the rear property line that runs along the easterly side of the garage, the location of the proposed garage is an improvement from that of the previously existing garage. Subject to the condition below, there would be no detriment to any nearby property.

**WHEREAS**, the Board, based upon the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and did 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, concluded that the applicant did prove 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 of Daniel Gerdes is hereby approved, subject to the following condition:

1. Within 6 months the discrepancy between the property surveys shall be resolved to the satisfaction of the Planning Department or the owner of 94 Wildwood Avenue shall convey by deed any interest he may have in the overlap area described in Paragraph 4 above to the applicant.

**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 Ms. Cockey, the following Resolution memorializing the approval of the application of **S.W. Flowers, M.D., 460 Bloomfield Avenue** was adopted:

**WHEREAS**, S.W. Flowers, M.D., did make application to the Board of Adjustment of the Township of Montclair to occupy two first floor commercial condominium units of the building located at 460 Bloomfield Avenue for a combination of retail/medical use on property designated as Lot 1 in Block 3106 on the Montclair Township Tax Map and located in the "Center Area" of the C-1 Central Business Zone; and

**WHEREAS**, the applicant requested a variance pursuant to N.J.S.A. 40:55D-70d(1) to permit first floor medical office use which is not permitted in accordance with Montclair Code Section 347-80B(3); and

**WHEREAS**, the applicant submitted a floor plan and elevations prepared by Oasis Architecture and Planning , P.C., Sheet SK-1 dated March 23, 2008 revised through February 4, 2009; and

**WHEREAS**, this matter came on to be heard at regular meetings of the Board of Adjustment held on October 15, 2008 and February 18, 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 located at the intersection of Bloomfield Avenue and South Fullerton Avenue and contains a three-story building with commercial condominium units. The subject property is located in the "Center Area" of the C-1 Central Business Zone.

2. The application contemplates modifications to the interior of two first floor commercial condominium units with street frontage on Bloomfield Avenue. The applicant proposes to use the space for a combination of retail/medical use providing alternative medical approaches to treatment in combination with the sale of products. The proposal includes a retail sales area of 620 square feet across the combined store front and the remaining 1,877 square feet to be utilized for non-retail purposes for a total of 2,497 net square feet of floor area. The revised plan includes a new primary tenant entry door in the store front that leads to an interior ramp from grade level up to the first floor. The existing entry doors would remain.

3. The subject condominium units have been primarily used for office space in recent history which is not a permitted use. Most recently the units contained an attorney's office and a retail store. The overall character of the within proposal is more consistent with the intent and purpose of the C-1 Central Business Zone than previous uses of the property.

4. With respect to the use variance to permit first floor medical office use, there are various purposes of zoning and special reasons in support of the use variance, including that it promotes the appropriate use of land and the general welfare because the site is particularly suited for the use (N.J.S.A. 40:55D-2a), provides sufficient space at an appropriate location for the proposed use (N.J.S.A. 40:55D-2g), promotes a desirable visual environment through creative development techniques (N.J.S.A. 40:55D-2i), retains and conserves a property and building with historical and architectural value (N.J.S.A. 40:55D-2j) and coordinates public and private initiatives shaping land development and the more efficient use of land (N.J.S.A. 40:55D-2m).

5. Based upon the Board's particular knowledge of local conditions, the within application is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

6. Approval of this application is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance which seeks to encourage pedestrian-oriented and specialized shopping opportunities in a downtown setting.

**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.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township of Montclair, that the within application of S. W. Flowers, M.D, for a use variance to permit retail including first floor medical office use is hereby approved subject to the following conditions:

1. A minimum of 600 square feet shall be utilized as active retail across the entire frontage which shall not be used for a waiting area.

2. No more than 1,000 square feet shall be devoted to medical office use as currently defined in Section 347-2 of the Montclair Code.

3. The building shall be handicap accessible consistent with the testimony at the public hearings.

4. The applicant shall obtain approval from the Montclair Historic Preservation Commission.

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

Mr. Susswein arrived. The discussion for selecting special meeting dates to continue the application of **Omnipoint Communications, Inc., 153 Park Street** was adjourned to the April 15, 2009 regular meeting of the Board, at the applicant's request. No further notice would be given. The Board was granted an extension of time on the application.

Chair Harrison was recused and Vice Chair Fleischer called the application of **First Evangelical Lutheran Church, 153 Park Street**. Calvin Trevenen, Esq. appeared as attorney and described the application for a minor subdivision and variance pursuant to N.J.S.A. 40:55D-70d(2) to convey a portion of Lot 25 in Block 2408 to Lot 25.01 in Block 2408, which results in a reduction of the lot size of a nonconforming use contrary to Montclair Code Section 347-112 on property located in the R-1 One Family Zone. Prior to the 1987 Planning Board minor subdivision approval, the properties involved in the proposed conveyance were one lot known as 149-153 Park Street and contained the church building as well as the single family dwelling. The approved subdivision created separate lots for the church building and the dwelling to the south of the church. Mr. Whipple disclosed to the applicant that a personal friend of his had recently

purchased an adjoining property. He also stated that he did not believe it would affect his ability to judge the application fairly and impartially. Mr. Trevenen stated that the applicant did not object to Mr. Whipple participating in the application.

Pastor William Moser was sworn. The church property has 35 parking spaces which adequately accommodates the parking demand in connection with the normal church use, which excludes Christmas services and occasional weddings and funerals. The 5,853 square foot portion of the property which is the subject of the subdivision has never been used by the church for parking or any other purpose. The Board questioned Pastor Moser. No questions were offered from the public.

Matthew Garrison, 149 Park Street was sworn. He is the owner of Lot 25.01 in Block 2408 that contains a 2½ story single family dwelling. Historically, the property being conveyed to his lot has been utilized by the occupants of his property, even after the 1987 subdivision that created the current lot lines. This is evident on the property survey maps which still depict the extension of his driveway projecting into the property being conveyed, and also depicts the remains of a garage foundation that was associated with his dwelling. The Board questioned Mr. Garrison. He stated that he was fully aware of the property line situation when he purchased the property. No questions were offered from the public.

Paul Sionas, PP, was sworn and stated his qualifications as a Professional Planner. He described the application. Lot 25 in Block 2408 is an interior lot containing approximately 44,407 square feet in area and is improved with a one story masonry church building and associated parking. Lot 25.01 in Block 2408 contains approximately 13,753 square feet in area and is improved with a two and one-half story single family dwelling. Immediately to the rear of Lot 25.01 is an area consisting of 5,853 square feet which is part of Lot 25. The minor subdivision seeks to annex the 5,853 square foot portion of Lot 25 to Lot 25.01. Approval of the application advances the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et seq., specifically encouraging appropriate use of land which promotes the general welfare (-2a); provides adequate light, air and open space (-2c); and provides sufficient space in an appropriate location for the existing uses (-2i). Approval of the subdivision application eliminates an area for future parking by the church and thus restricts expansion of the church use which is consistent with the intent and purpose of the Zoning Ordinance and Master Plan.

Marked into evidence were:

- A-1 Minor Subdivision Plan, with color added on a board
- A-2 4 Photographs of the subject properties on a board
- A-3 Board Engineer review letter, dated June 18, 2008

The Board questioned Mr. Sionas. No questions or comments were offered from the public. Mr. Trevenen summarized the application. The Board discussed the application. Based upon the Board's particular knowledge of local conditions, approval of this application will have no adverse impact on area properties as the two properties will function without any measurable change. Consequently, the Board finds there will



be no substantial detriment to the public good in approving the subdivision application. The Board 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. On motion by Mr. Whipple, seconded by Ms. English the application was approved.

Chair Harrison called the application of **Carol & Joe Apprendi, 32 Erwin Park Road**. Carol Apprendi, owner, and Kip Siebert of Heritage Home Design Corp. were sworn. Mr. Siebert described the proposed addition and the variances requested. The subject property contains a single-family dwelling with a detached garage in the rear yard. The property measures 75 feet in lot frontage width and 11,250 square feet in lot area. The front property line is curved. The existing dwelling has a minimum front setback of 49.60 at its closest point and 63.75 at its furthest point, which is near the proposed addition. The average front yard setback of the 4 nearest principal structures, 2 on either side, of the subject dwelling, is 86.98 feet. This calculation includes a through lot on an adjoining property that is oriented towards Central Avenue instead of Erwin Park Road. A minimum front yard setback in keeping with the average front yard setback of 86.98 feet is required and a lesser front yard setback of 63.75 feet is proposed, and a variance is requested. The width of the dwelling is not permitted to exceed 65 percent of the lot frontage width. The existing dwelling has a nonconforming width of 49.75 feet or 66.3 percent of the lot frontage width, where a maximum of 48.75 feet or 65 percent of the lot frontage width is permitted. The proposed addition measures 3.5 feet in width which increases the width of the dwelling to 53.25 feet or 71 percent of the lot frontage width, and a variance is requested.

Marked into evidence were:

- A-1 Photographs of the subject property
- A-2 Photographs of the subject property

The Board questioned the applicant and Mr. Siebert. No questions or comments were offered from the public. The Board discussed the application. The Board determined that the requested variances could be granted. The dwelling located on the through lot on the adjoining property to the south is located approximately 180.5 feet from the front property line which is not a characteristic front setback on Erwin Park Road and skews the front setback requirement for the subject property. If not for the unusually large setback of the adjoining through lot, the proposed addition would be in keeping with the front setback of properties on Erwin Park Road. The proposed addition conforms to the side yard setback requirement and the 3.5 feet of additional width to the first floor on the southerly side of the dwelling will not negatively impact the neighborhood being that the addition is one-story and is partially screened by existing shrubbery. The Board concluded that the applicant 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. On

motion by Mr. Whipple, seconded by Mr. Susswein the application was approved, subject to the following condition:

1. The proposed addition shall be limited to one-story.

Chair Harrison called the variance application of **Joseph & Holly Christovao, 22 Macopin Avenue**. Holly Christovao was sworn and described the application to construct a 2-car attached garage onto the easterly side of the dwelling. A patio covered by an extension of the garage roof supported by columns is proposed at the rear of the garage addition. A new driveway is also proposed to lead to the new attached garage. The detached garage and driveway currently used in conjunction with the dwelling are located on the adjoining lot to the west which is commonly owned, but is not merged as each lot has a separate deed and is conforming in lot size. The lot frontage width of the lot containing the dwelling is 70.89 feet and the maximum permitted width of the dwelling is 46 feet or 65% of lot frontage width. The existing dwelling is currently conforming in that respect, measuring 42 feet in width. The proposed attached garage addition would widen the dwelling to a width of 62 feet and a variance is requested. The front of the attached garage would be set back about 20 feet from the front wall of the dwelling. The rear yard topography, the existing brook/drainage ditch that cuts through the rear yard, and the limited usable rear yard area limit the ability to place a garage in the rear yard of the property.

The Board questioned the Ms. Christovao extensively. She stated that they are presently planning on retaining ownership of the adjoining property with the existing driveway and garage. She is not aware of how the NJDEP regulations might affect the proposal. Chair Harrison called for questions and comments from the public. Justin Klabin, 20 Macopin Avenue, was sworn and stated his objection to the application. The proposed garage addition would negatively affect the area of his rear yard that is above the flood plain which he uses frequently.

Marked into evidence were:

- OK-1 Photocopy section of the applicants' plot plan
- OK-2 Photographs of the rear yard of Mr. Klabin's rear yard and of the brook
- OK-3 Photographs of the side yard area between the subject property and Mr. Klabin's property as viewed from the front
- OK-4 Photographs of the side yard area between the subject property and Mr. Klabin's property as viewed from the rear

The Board questioned Mr. Klabin. He stated that any construction that requires a variance from the principal building width limitation should not be approved and that the flat area directly behind the dwelling should be used if needed. The Board questioned Ms. Christovao again. She is not interested in constructing an attached garage on the other side of her dwelling, which would require the merger of the lots. Mr. Drill, Esq., left the meeting, and was replaced by Mr. Sullivan, Esq. John Werner, 28 Nassau Road, was sworn and stated his objection to the application. The Board continued to question Ms. Christovao. During this line of questioning by the Board, it was determined that the side yard setback requirement for the easterly side property line is 10 feet, which the

plan does not comply with, and that the notice for the application did not include this variance, which will require the applicants to renote for a subsequent hearing. It was also made clear that detached accessory buildings must be in a rear yard pursuant to Montclair Code Section 347-22A. The Board stated that the applicants should look into a more zoning compliant design and also look deeper into what NJDEP constraints may exist for a detached garage in the rear yard. The application was adjourned to the April 15, 2009 meeting. The applicants would be required to complete public notice to include the variances required and the Board was granted an extension of time.

Prior to taking a short recess, **Steve Marshall, 200 Claremont Avenue**, was advised that his application would not be reached at this hearing. He elected to wait and see if a potential special meeting date that may be selected to continue the next application would provide a more favorable date than the April 15, 2009 regular meeting.

Chair Harrison called the continuation of the application of **Immaculate Conception High School, Codey Field - 267 Orange Road**. James Lott, Esq. appeared as attorney and described the application. Sister Maureen Crowley, President of Immaculate Conception High School, was sworn. Sister Crowley described the purpose, mission, and history of the school in Montclair, and the operations of their Athletic Department and Codey Field. The application is to construct a new field house and a new parking area for 8 vehicles that would be accessible through a new driveway from Sears Place. The existing field house was originally built as a dwelling, is in poor condition and does not adequately serve the purpose of a field house for their student athletes and visiting teams. There would be no increase in usage of the field as a result of the proposed building, and the only vehicles that would access the proposed parking area though the new driveway from Sears Place would be those driven by coaches and emergency personnel. The project would be funded through fundraising efforts.

Marked into evidence was:

- A-1 Certificate of Incorporation of Immaculate Conception High School of Montclair, Inc.
- A-2 IRS 503(c)(3) Tax Exempt Status
- A-3 Student Profile of Immaculate Conception High School 2007-2008
- A-4 52 Photographs of the interior and exterior of the existing field house

The Board questioned Sister Crowley. They would be providing specific instruction to the visiting schools to continue to park where they have been parking. Mr. Lott stated that he has another witness who can testify to the applicant's ability to build a new building in the same location as the existing building. Sister Crowley stated that the existing building was first used as a field house in 1941.

Chair Harrison called for questions from the public.

Milt Horowitz, 17 Madison Avenue, asked how many coaches and other staff people there are and where they have been and will be parking. Sister Crowley stated that there are 4 or 5 coaches who currently park on the street.

Mark Janifer, 15 Madison Avenue, asked about the size of the building, how many of their students are from Montclair, and what kind of efforts went into maintaining the existing building. Mr. Lott stated that another witness will speak to the design of the building. Sister Crowley stated that they have 3 students who reside in Montclair. The age of the building has made it difficult to maintain the existing field house.

Lourdes Hallock, 25 Madison Avenue, asked if a trash removal program would be in place. Sister Crowley stated that a new company has been used since the fall of 2008 to improve maintenance and trash removal.

Michael Manning, 16 Sears Place, asked how many football players they have. Sister Crowley stated they have approximately 45 students on the football team.

Renee Baskerville, 371 Orange Road, asked about the specific uses within the proposed building. Sister Crowley described the meeting room specifically.

Jarvis Hawley, 17 Grenada Place, asked how many students are involved in other sports at the school aside from football. Mr. Lott stated that that information could be provided at a later hearing.

Audrey Hawley, 17 Grenada Place, asked when Township organizations began to use Codey Field. Sister Crowley stated that Township organizations began using the field at least 5 years ago, which typically occurs on Saturdays and/or Sundays.

Virginia Cornue, 129 Lincoln Street, asked about the number of girls that are involved in sports programs and what kind of consideration was given to renovating existing building. Sister Crowley stated that the renovations of the existing structure have been put off since the building has been difficult to adapt to the use of a field house.

Louise Brewington, 279 Orange Road, asked about the times on Saturdays and Sundays that the field is used. Sister Crowley stated that the hours of operation would remain the same. Mr. Lott questioned Sister Crowley. She stated that the field is not leased for profit. They were approached by the Montclair Youth Soccer Organization due to a lack of sufficient space in the Township, and that they proposed their own hours of usage.

Judith Knox, 8 Sears Place, asked how large emergency vehicles like fire trucks could access the proposed building. Mr. Lott stated that he has another witness who could address this issue.

Milt Horowitz, 17 Madison Avenue, asked about trash removal and the cost of the project.

Mark Janifer, 15 Madison Avenue asked if the applicant was financially solvent. Chair Harrison advised Mr. Janifer that the Board's ruling on variances does not involve the school's financial status.

Renee Baskerville, 371 Orange Road, asked about the use variance request. Mr. Lott stated that the new building requires a use variance for use not permitted in the zone.

Virginia Cornue, 129 Lincoln Street, asked about the proofs required for the use variance. Mr. Lott stated that a Professional Planner will provide that information.

Michael Manning, 16 Sears Place, asked about the plans submitted and what kinds of changes would be permitted without an application to the Board. He also asked how the project was being funded.

The Board questioned Sister Crowley. The local soccer and rugby groups that utilize the field provide voluntary donations to the school as part of the agreement to use their field. Chair Harrison announced that the application would be continued at a special meeting on April 22, 2009 and that no further notice will be given. The Board was granted an extension of time.

Chair Harrison announced that the application of **Steve Marshall, 200 Claremont Avenue** would be continued at the April 15, 2009 regular meeting of the Board and that no further notice would be given. On motion by Mr. Susswein, seconded by Mr. Whipple the meeting was adjourned.