

MINUTES OF THE BOARD OF ADJUSTMENT
May 19, 2010

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

ABSENT: Ms. Cockey, Ms. English, Ms. Holloway, Mr. Kenney, 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.

On motion by Mr. Fleischer, seconded by Mr. Susswein, the **Minutes of the February 17, 2010** regular meeting were adopted as modified. On motion by Mr. Fleischer, seconded by Mr. Susswein, the **Minutes of the April 7, 2010** special meeting were adopted as modified.

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following Resolution memorializing the Board's decision on the application of **86 Valley Road Associates, LLC, 86 Valley Road** was adopted as modified, Mr. Susswein abstaining:

WHEREAS, 86 Valley Road Associates, LLC, did make application to the Board of Adjustment of the Township of Montclair to permit a personal training business to occupy a portion of the second floor of the building on property designated as Lot 1 in Block 1403 on the Montclair Township Tax Map and located in the OR-3 Garden Apartment and Office Building Zone; and

WHEREAS, the applicant requested relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(1) to permit a personal training business which is not a permitted use in accordance with Montclair Code Section 347-59.

2. A variance pursuant to N.J.S.A. 40:55D-70c to permit less than the required number of parking spaces in accordance with Montclair Code Section 347-101.

WHEREAS, the applicant submitted a site plan and area map prepared by Oasis Architecture and Planning P.C. dated January 18, 2006 revised through March 3, 2006 as well as floor plans consisting of Sheets PB-1 and PB-2 prepared by Raymond E. O'Brien R.A. Inc. dated December 23, 2005 revised through January 17, 2006 including notations on the floor plan to indicate the second floor area which is the subject of this application; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on April 21, 2010 at which time it was established the 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 consists of 9,200 square feet of lot area and has frontage on Valley Road, Mountainview Place and Bell Street. The property is improved with an irregularly shaped two story building with gross floor area of 2,381 square feet on the first floor and 2,494 square feet on the second floor.

2. The building was originally constructed to house the Montclair Volunteer Ambulance Unit and was subsequently modified through site plan and variance approval for office use in accordance with a resolution adopted by the Montclair Planning Board on April 17, 2006.

3. The personal training business will occupy approximately 1,678 square feet of gross floor area on the second floor and consists of primarily one-on-one training. Not more than two trainers would be on site at any one time. Occasionally a trainer will work with two clients. Typical hours of operation would be 6:00 a.m. to 11:00 p.m. six days a week.

4. The site is particularly suited for the proposed use and approval of this 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) and provides sufficient space in an appropriate location for the proposed use (-2g).

5. In accordance with the 2006 Planning Board approval, the applicant received a variance to permit 14 parking spaces (including one tandem space) where a minimum of 26 on-site parking spaces was required by Montclair Code Section 347-101. The personal training business constitutes a personal service with a parking calculation of one space per 200 square feet as opposed to general office which is one space per 250 square feet. As a result, the off-street parking requirement increases by two spaces. The Board, however, determined that based upon the testimony and conditions imposed herein, the parking demand of this use will not exceed the demand for general office use.

6. Based upon the limited nature of the proposed use, approval of this application is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. Although a personal training business is not permitted by the Ordinance, it is likely the omission of this use from the Zoning Ordinance was inadvertent rather than deliberate and the use is compatible with other uses in the zone.

7. 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.

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; and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair, that the within application of 86 Valley Road Associates, LLC for a use variance to permit a personal training business to occupy a portion of the second floor of the building and a variance to allow less than the required number of parking spaces is hereby approved subject to the following conditions:

1. This approval is limited to a personal training business with not more than two employees on site at any one time with not more than two clients per employee.
2. No additional signs shall be permitted.
3. All conditions of prior approvals not inconsistent herewith, shall remain in full force and effect.
4. The applicant shall be responsible for payment of all escrow charges incurred in connection with the review of this matter.

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

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following Resolution memorializing the Board's decision on the application of **Mr. & Mrs. Edward Sim, 84 Myrtle Avenue** was adopted, Chair Harrison and Mr. Susswein abstaining:

WHEREAS, Mr. & Mrs. Edward Sim, as owners, 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 associated with a proposed one-story addition to the dwelling and for the proposed location of central air conditioning units on property designated as Lot 2 in Block 1301 on the Township Tax Map and located in the R-0(a) One-Family Zone; and

WHEREAS, the applicant requested variances from **Montclair Code Section 347-39D** for a principal building coverage exceeding the maximum permitted, and from **Montclair Code Section 347-40A(2)a** for a side yard setback less than required for 3 central air conditioning units; and

WHEREAS, the applicant submitted a property survey dated July 17, 2002 and plans prepared by George A. Held, AIA & Associates, revised February 19, 2010; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on April 21, 2010 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 located in the R-0(a) One-Family Zone and contains a single family dwelling. The property measures 12,092 square feet in lot area and 70 feet in width. Variances are requested associated with a proposed one-story addition to the dwelling and for the proposed location of central air conditioning units.

2. A one story addition is proposed at the rear of the dwelling that will contain a new kitchen and eating area. A small existing rear porch is being re-roofed and extended to tie in to the addition. The maximum permitted principal building coverage in the R-0(a) Zone is 20 percent of the lot area. The existing principal building coverage on the property is 17.28 percent. The proposed addition increases the principal building coverage to 21.4 percent and a variance is requested.

3. Three (3) central air conditioning units, including 2 that are being relocated from the existing rear wall of the dwelling, are proposed on the easterly side wall of the addition. The minimum side yard setback requirement for central air conditioning units, as accessory structures in the R-0(a) Zone, is 12 feet. The central air conditioning units would be 8.33 feet from the easterly side property line, and a variance is requested.

4. The Board determined that the variance requested for exceeding the maximum permitted principal building coverage could be granted. The proposed deviation is minor. The odd shape and relative narrowness of the lot in the R-0(a) Zone, results in the property lacking some lot area, which contributes to the proposed nonconformity and poses a hardship for the applicants.

5. The Board also determined that the variance requested for a side yard setback less than required for 3 central air conditioning units could be granted. The easterly side yard of the subject property abuts the rear yard of a larger corner property, on which the dwelling is positioned further to the east up on higher grade fronting on South Mountain Avenue. The rear yard of the adjoining corner lot is utilized as a driveway in the area where the proposed central air conditioning units are proposed. The existing hedges along easterly side property line of the subject property also shield the view of the central air conditioning units.

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 of **Mr. & Mrs. Edward Sim** is hereby approved, subject to the following conditions:

1. A drywell must be constructed and maintained on the property at a location that is no closer to the easterly side property line than the easterly edge of the proposed addition. Roof leaders from the proposed addition shall be connected to drywell to manage the additional storm water produced by the addition.

2. The existing hedges located along the easterly side property line in the area where central air conditioning units are proposed shall be maintained in their current location and size as shown in the photographs submitted as exhibits A-2 through A-5.

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

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following Resolution memorializing the Board's decision on the application of **Brett and Dorene Jackson, 60 Hawthorne Place** was adopted, Mr. Susswein abstaining:

WHEREAS, Brett and Dorene Jackson, as owners, 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 second floor addition onto the single-family dwelling on property designated as Lot 6.01 in Block 2109 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant requested variances from **Montclair Code Section 347-45B(1)** for a front yard setback less than required, and from **Montclair Code Section 347-45D** for a rear yard setback less than required; and

WHEREAS, the applicant submitted a property survey dated February 28, 2010 and plans prepared by Thomas Cohen, Architect, dated February 1, 2010; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on April 21, 2010 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 located in the R-1 One-Family Zone, measures 90 feet in width by 100 feet in depth, and contains a single family dwelling. A second floor addition is proposed over the existing two-car attached garage on the easterly side of the property. Variances are requested for the front and rear setbacks of the proposed addition. The second floor addition measures 22 feet in width by 28 feet 2 inches in length, and would expand an existing bedroom and create a study, a walk-in closet, and a bathroom.

2. The required front setback for the new construction on the property is 45 feet 7 inches, which is based on the average front setback of the 3 nearest dwellings, 2 to the right and 1 to the left, which is on the corner of Hawthorne Place and South Fullerton Avenue. The existing dwelling has a nonconforming front yard setback of 45 feet as measured to the area of the dwelling where the addition is proposed.

3. The required rear yard setback for new construction on the property is 30 feet, which is 30 percent of the 100-foot lot depth. The existing dwelling has a nonconforming rear yard setback of 27 feet as measured to the area of the dwelling where the addition is proposed

4. The proposed second floor addition would be aligned with the walls of the first floor below directly below it, and would follow the existing nonconforming front and rear setbacks, which requires variances.

5. The Board determined that the requested variances could be granted. The proposed second floor addition is aligned with the walls of the existing dwelling and would not expand the footprint of the dwelling. The lot dimensions and placement of the existing dwelling significantly limit the ability of the applicant to construct conforming additions to the dwelling.

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 applicants 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 of **Brett and Dorene Jackson** is hereby approved; and

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

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following Resolution memorializing the Board's decision on the application of **Mitchell MacGregor, 14 Cross Street** was adopted, Mr. Susswein abstaining:

WHEREAS, **Mitchell MacGregor**, as owner, 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 associated with a proposed additions to the dwelling on property designated as Lot 11 in Block 2104 on the Township Tax Map and located in the R-2 Two-Family Zone; and

WHEREAS, the applicant requested variances from **Montclair Code Section 347-51** for a front yard setback of less than 25 feet, for side yard setbacks of less than 10 feet and 6 feet, for a principal building coverage exceeding 25 percent of the lot area, and for exceeding 2½ stories with third floor dormers that exceed the width permitted; and

WHEREAS, the applicant submitted a property survey dated December 16, 2008 and plans prepared by John Guadagnoli, Architect, dated March 30, 2010; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on April 21, 2010 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 located in the R-Two-Family Zone, measures 36 feet in width by 100 feet in depth, and contains a single family dwelling. Additions are proposed that require variances; some of the work has already been started. The roof and attic level of the dwelling as it existed previously have been removed and reframed at a taller height and include a gable dormer at the front and rear as shown on the plans.

2. The front and side walls of the existing dwelling have nonconforming setbacks. The main wall of the dwelling has a front setback of 13.42 feet where 25 feet is required. The side yard setbacks of the dwelling where the increase in building height is proposed are 4.48 feet on the west, and 9 feet on the east, where 6 feet and 10 feet are required. The increase in height on the front and side walls along these nonconforming setbacks for the new attic level requires variances for a front yard setback of less than 25 feet and for side yard setbacks of less than 10 feet and 6 feet.

3. The 15.5-foot width of the dormers proposed on the front and the rear of the dwelling exceeds the maximum allowance under **Montclair Code Section 347-23C** that would permit the dormers to be approximately 11 feet wide. As a result, the new attic level is considered a full third story rather than a half story and requires a variance in that a maximum of 2.5 stories is permitted.

4. The existing dwelling on the site has nonconforming principal structure coverage of 26.24 percent, where a maximum of 25 percent is permitted. An existing one-story section of the dwelling measuring 4 feet 6 inches by 10 feet 2 inches on the east side of the dwelling is to be removed. A two-story addition measuring 13 feet 1 inch by 15 feet 2 inches is proposed at the rear of the dwelling. A rear landing and steps measuring 35 square feet is also proposed. The two-story addition and landing with steps at the rear increases the principal structure coverage to 30.44 percent, and requires a variance.

5. The Board determined that the variance requested to exceed 2.5 stories associated with the width of the dormers that exceed the maximum width permitted could not be approved. The dormers as constructed are too large and created an attic level of the dwelling that is out of scale with the dwellings the neighborhood.

6. The Board also determined that the variances requested for the front and side yard setbacks and for the principal structure coverage can be approved. The narrowness and shallow depth of the lot and the placement of the existing dwelling on the property significantly limit the ability of the applicant to comply with these zoning requirements.

WHEREAS, the Board concluded, based upon the foregoing findings regarding the variance requested to exceed 2.5 stories, that the applicant did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and did not

prove that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board concluded, based upon the foregoing findings regarding the variance requested to exceed 2.5 stories, that the applicant did not prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and did not prove that the benefits of the deviation would substantially outweigh any detriment 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 the requirements of NJSA40:55D-70C(2); and

WHEREAS, the Board concluded, based upon the foregoing findings regarding the variances requested for the front and side yard setbacks and for the principal structure coverage, 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 concluded, based upon the foregoing findings regarding the variances requested for the front and side yard setbacks and for the principal structure coverage, 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 variance requested to exceed 2.5 stories is denied, and the variances requested for the front and side yard setbacks and for the principal structure coverage are approved, subject to the following conditions:

1. The principal structure lot coverage is not to exceed 31 percent of the lot area.
2. The existing footprint of the dwelling is limited to 2.5 stories, and the proposed addition at the rear is limited to 2 stories as depicted on the plan.

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

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following Resolution memorializing the Board's decision on the application of **129 Grove, LLC, 129 Grove Street** was adopted, Mr. Susswein abstaining:

WHEREAS, 129 Grove, LLC, did make application to the Board of Adjustment of the Township of Montclair to permit office (including medical office) use of a portion of the first floor of the building on property designated as Lot 60 in Block 4308 on the Montclair Township Tax Map and located in the N-C Neighborhood Commercial Zone; and

WHEREAS, the applicant requested relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(1) to permit office (including medical office use) which is not a permitted use on the first floor of the building pursuant to Montclair Code Section 347-90.
2. A variance pursuant to N.J.S.A. 40:55D-70c to permit less than the required number of parking spaces in the event the area is used for medical office use in accordance with Montclair Code Section 347-101.

WHEREAS, the applicant submitted a property survey prepared by Clark Surveying dated January 8, 1999 as well as a first floor layout plan prepared by Roger DeNiscia dated March 18, 2010; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on April 21, 2010 at which time it was established the 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 consists of approximately 3,900 square feet of lot area and is located on the easterly side of Grove Street between Walnut and Oxford Streets and is improved with a two story building.
2. Prior to 1980, the building was utilized as a bank and subsequently converted to office and medical office use. In 2000, the first floor which had been used entirely for medical office use underwent alteration whereby a 1,075 square foot area was converted to a beauty salon which has vacated the premises. The basement and first floor area (exclusive of the former beauty salon area) are currently occupied by medical office uses. The second floor contains a realtor's office and massage therapist. This application seeks to convert the former beauty salon on the first floor to office (including medical office) use without any exterior modifications to the building or site.
3. The proposed site is particularly suited for the office including medical office use since the building was designed as a non-retail commercial building with a

long standing history of use as office and medical offices. The building does not contain at grade access at the front and possesses other physical characteristics which render the building unsuitable for retail use on the first floor.

4. Approval of this 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) and provides sufficient space in an appropriate location for the proposed use (-2g).

5. The site does not contain any approved on-site parking and none can be added given the physical constraints of the property. In the event the 1,075 square foot area formerly occupied by the beauty salon is used as a medical office, the amount of on-site parking required would increase by two parking spaces necessitating a variance. The applicant agreed to secure permit parking for two cars in the event this area was utilized for medical office use which would adequately address the increased parking demand.

6. Based upon the unique characteristics of this building and the limited nature and scope of the proposed used, approval of this application is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance.

7. Based upon the Board's particular knowledge of local conditions, including the existence of a number of compatible uses in the area, the within application is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

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, and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair, that the within application of 129 Grove, LLC for a use variance to permit office (including medical office) use and variance to allow less than the required number of parking spaces in the event the property is utilized for medical office use is hereby approved subject to the following conditions:

1. In the event the area which is the subject of this application is utilized for medical office use, the applicant shall secure parking permits for two cars.
2. All signs shall conform to the requirements of the Zoning Ordinance.
3. The applicant shall be responsible for payment of all escrow charges incurred in connection with the review of this matter.

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

The Board briefly discussed the requested postponement of the application of **Wallwood Gardens, Inc, 400 Orange Road**. The continuation of the application was postponed until July 21, 2010 at the request of the applicant. The applicant would be required to complete a full public notice for that date. Mr. Sullivan stated that he would have a discussion with the attorney for the applicant regarding the July date and future postponements. The application of **David & Azita Staubach, 12 Argyle Road** was carried to the June 16, 2010 regular meeting. The applicant had not completed the mailing of the public notice. Both the mailing and publishing of the notice would be completed for the June date. No extension of time was necessary. The application of **William L. Rose, 476 Grove Street** was also carried to the June 16, 2010 regular meeting at the request of the applicant. Public notice for this meeting was completed and no further notice would be given. No extension of time was necessary.

The application of **Hui Zhang, 8 Skytop Terrace** was called. Hui Zhang and Michael Catchpole were sworn. Mr. Catchpole is co-owner of the property. Ms. Zhang and Mr. Catchpole described the application. Variances are requested associated with the proposed construction of a one story addition and deck at the rear of the dwelling. The lot is irregularly shaped and measures 6,759 square feet in lot area. The required rear yard setback for the property is 29.6 feet, or 30 percent of the lot depth of 98.67 feet. The rear setback follows the angled rear property line. A portion of the proposed addition and the deck will extend into the required rear yard setback. The addition would have a rear setback of approximately 26 feet at its closest, and the deck and deck stairs would have a rear setback of approximately 21 feet at its closest. A variance is requested for a rear yard setback less than required. The existing principal structure coverage is conforming at 22 percent of the lot area. With proposed addition and deck, the principal structure coverage increase to 26.4 percent of the lot area. A variance is requested for a principal building coverage exceeding 25 percent of the lot area.

The Board questioned the applicant. Chair Harrison called for questions or comments from the public. Dennis Holt, 10 Skytop Terrace, was sworn. He stated that due to the curvature of Skytop Terrace and the varied lot depths, the rear yard area of the subject property is aligned with the front yard area of his property which is the adjoining property to the north on Skytop Terrace, and that he has concerns about noise emanating from the usage of the addition.

Exhibits:

- O-1 Sketch prepared by Mr. Holt depicting the position of his dwelling relative to the position of 8 Skytop Terrace
- O-2 10 photographs of the properties at 8 and 10 Skytop Terrace

Mr. Catchpole stated that he also has a photograph of the area on their property where the addition is proposed. He stated that there is not currently significant evergreen landscaping alongside the area where the addition is proposed and that they could add more landscaping if required.

Exhibit:

- A-1 Photograph of rear yard of 8 Skytop Terrace looking towards 10 Skytop Terrace

The Board discussed the application and determined that the requested variances could be granted. The unusual shape and shallow depth of the lot and the placement of the existing dwelling on the lot significantly limit the ability of the applicant to construct conforming additions to the dwelling. The Board also noted that due to the curvature of Skytop Terrace and the varied lot depths, the rear yard area of the subject property is aligned with the front yard area of the adjoining property to the north on Skytop Terrace, and that that the applicant should plant and maintain evergreen shrubbery between the proposed addition and the northerly side property line. On motion by Mr. Susswein, seconded by Mr. Fleischer, the variances requested were approved, subject to the following condition:

1. At least 2 evergreen shrubs shall be planted and maintained between the proposed addition and the northerly side property line; and

The application of **Rhonda and David Crichlow, 16 Greenview Way** was called. Rhonda and David Crichlow, and Paul Sionas, Architect, were sworn. Mr. and Mrs. Crichlow provided comments and described the proposed additions to their dwelling from their perspective. Mr. Sionas also described the application and the variances requested. The property is located in the R-1 One-Family Zone and contains a single family dwelling with an attached garage. The lot measures 85 feet in frontage width and 10,116 square feet in lot area. One story additions are proposed along the sides of the of the existing rear section of the dwelling. The required rear yard setback for new construction on the property is 36.47 feet, which is 30 percent of the lot depth of 121.58 feet. The existing dwelling has a nonconforming rear yard setback, and the proposed

one-story additions would be aligned with the existing rear wall of the dwelling. A variance is requested for rear yard setbacks of 28.22 feet and 27.95 feet for the proposed additions where 36.47 feet is required. A second floor addition is proposed above an existing one-story section located at the southerly side and front of the dwelling. The width of the first floor and footprint of the dwelling is currently nonconforming. The lot is 85 feet wide at the front. A dwelling width of 55.25 feet is permitted, which is 65 percent of lot frontage width. The first floor and footprint of the dwelling measures 58.55 feet in width, which is 68.8 percent of the lot frontage width. The addition to the second floor would add 11 feet and 1.5 inches of width to the second floor of the dwelling, so that the width of the second floor of the dwelling would be aligned with the first floor and footprint at 58.55 feet. A variance is requested to exceed the permitted principal structure width for the addition to the second floor of the dwelling.

Submitted exhibits:

- A-1 Site plan on a board with color added
- A-2 Photographs of the dwelling and other dwellings in the neighborhood
- A-3 Photographs of the dwelling and other dwellings in the neighborhood
- A-4 Photographs of the dwelling and other dwellings in the neighborhood
- A-5 Photographs of the dwelling and other dwellings in the neighborhood
- A-6 Photographs of the dwelling and other dwellings in the neighborhood
- A-7 Photographs of the dwelling and other dwellings in the neighborhood
- A-8 Second floor plan on a board with color added
- A-9 First floor plan on a board with color added
- A-10 Front elevation plan on a board with color added

The Board questioned the applicant. Chair Harrison called for questions or comments from the public. Harry Lubin, 17 The Fairway, was sworn, and asked questions about the rear yard and the patios proposed. The Board discussed the application and determined that the requested variances could be granted. The proposed one-story additions along the sides of the existing rear section of the dwelling would be aligned with the existing rear wall of the dwelling and do not negatively impact the remaining open rear yard area. The expanded width of the second floor resulting from the proposed second floor addition does not cause the dwelling to be out of scale or out of character with the existing dwellings in the neighborhood. On motion by Mr. Fleischer, seconded by Mr. Burr the application was approved.

The application of **Focus Physical Therapy and Wellness, 552 Valley Road** was called. Calvin Trevenen, Esq. appeared as attorney for the applicant and described the application for site plan approval and variances to convert the existing two-family dwelling to a commercial building that would include medical office use on the first floor. Cathy Stephenson was sworn. She is a Licensed Physical Therapist and that she and her husband, who is also a Licensed Physical Therapist, own the subject business, which is currently located at 193 Bellevue Avenue in the N-C Zone. They are seeking to purchase the subject property to house their physical therapy practice. They also offer non-medical services to the public for people not receiving physical therapy treatment such as massage therapy, yoga, and pilates, as well as offering products for sale

associated with health and wellness. The Planning Department acknowledged the business as both a medical office and personal service business establishment when they located at their current location. She described the proposed interior usage of the subject property in detail. They have a total of 11 employees. Their hours are Monday through Friday from 7:30 am to 7:30 pm. Based on their operations, there would be no more than 5 employees at one time at the business. They already have an agreement with the Commonwealth Club at 26 Northview Avenue to use up to 11 spaces in their parking lot for their employees and leave the 6 proposed parking spaces on the subject property available for patient, clients, and customers. The Board had several questions. Ms. Stephenson stated that she would consider expanding the nonmedical aspects of the business to weekend hours as well. She also stated that she would be willing to limit the number of people that can attend pilates group training sessions. No questions were offered from the public

Exhibit:

A-1 March 14, 2005 letter from the Planning Department

Jonathan Perlstein, Architect was sworn and described the plans in detail. The proposed project received approval from the Historic Preservation Commission at their March meeting. The application includes an addition at the rear of the building and a new driveway and parking area for 6 vehicles. The addition at the rear of the building will extend the basement and first floor of the building. The addition will include a rear lobby, stairway, and an enclosed alcove for HVAC equipment and trash receptacles on the basement level, and will include space for 2 exam/treatment rooms on the first floor. The addition complies with the setback requirements. The addition is designed with a gable roof, but does not contain more than 2 stories inside, and the addition itself complies with the height limit of 24 feet. A wheelchair lift is proposed on the southerly side of the front porch that will be enclosed with a fence and gate that slightly exceeds 7 feet in height at its tallest point. The fence enclosure does not comply with the maximum fence height of 4.5 feet in the area of the property where it is located. The fence could be viewed as part of the wheelchair enclosure. The gravel driveway will be replaced by a wider paved driveway leading to a new paved parking area in the rear yard for 6 vehicles. He reviewed how the parking requirement and the gross floor area for the uses proposed in the building, and indicated that 16.34 or 17 spaces are required by the ordinance. The proposal results in an impervious lot coverage of 77 percent of the lot area. The 6 parking spaces comply with the dimensional requirements of 9 feet wide by 19 feet long. One handicapped accessible parking space located closest to the building. The access drive aisle for the parking spaces complies with the 24 foot minimum width for 90-degree parking. The rear property line abuts a portion of a large parking area for a large residential building to the south. He described the planting areas, the tree removal, and lighting on the site.

Exhibits:

A-2 Plans submitted for the application, prepared by Oasis Architecture, dated February 22, 2010

A-3 Photographs of the existing building and Photo-simulations of the building with the proposed modifications

The Board had several questions. Ms. Stephenson described their experience with visitors who are handicapped. They operate an outpatient facility and most of their patients are able to walk up and down stairs. Mr. Perlstein stated that they will go back and consider locating the wheelchair lift at the rear entrance where the handicapped space is proposed.

J. Michael Petry, Professional Planner and Professional Engineer, was sworn and stated his qualifications. Mr. Petry described the existing property, the application and the plans, and the variances requested. A variance is requested pursuant to N.J.S.A. 40:55D-70d(1) to permit the physical therapy office in the N-C Zone. The applicant also offers non-medical services and products to individual who are not physical therapy patients. The plan has also designated the areas at the front of the first floor for these non-medical office uses, which is in keeping with what is intended by the zoning ordinance and the master plan. A variance is also requested pursuant to N.J.S.A. 40:55D-70c to permit less than the required number of parking spaces. The plan includes a new parking lot designed with as much safe and efficient parking as could be constructed and the applicant has secured off-street parking where it is available on underutilized site. He also described the other dimensional variances and waivers requested and stated that all of the requested relief can be approved without substantial detriment to the public good. The application promotes several purposes of zoning, including: promotion of public health, providing sufficient space in an appropriate location for the proposed use, providing a desirable visual environment, and conservation of historic sites. The site is particularly suitable. The use is not inappropriate in the N-C zone. The medical office is only restricted on first floors and the applicant is proposing to blend in permitted uses on first floor.

Exhibits:

A-4 Aerial map with zoning overlay

A-5 Photographs of the subject property and properties in the neighborhood

The Board questioned Mr. Petry. There was some discussion on the permitted uses in the N-C Zone. He also addressed questions pertaining to the Board Engineer's review letter. No questions or comments were offered from the public. Mr. Trevenen requested that the Board withhold voting on the application and that the applicant would return to a subsequent meeting when 7 Board members are eligible to vote. No extension of time was necessary. The public hearing was closed and the application was carried to the June 16, 2010 meeting for the Board's discussion and vote. On motion by Mr. Whipple, seconded by Mr. Susswein the meeting was adjourned.