

**MINUTES OF THE BOARD OF ADJUSTMENT
JUNE 13, 2012**

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

ABSENT: Mr. Kenney, Ms. Holloway, and Ms. Talley, 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. Edwards, seconded by Mr. Fleischer, the **Minutes of the May 16, 2012** regular meeting were adopted as modified, Mr. Whipple, Mr. Burr, and Mr. Tsai abstaining.

It was announced that at the request of the applicant, the continuation of the application of **Wallwood Gardens, Inc, 400 Orange Road** was postponed until the August 15, 2012 meeting of the Board. The Board was granted an extension of time and the applicant would be required to complete a full public notice for that future meeting date.

On motion by Mr. Fleischer, seconded by Mr. Edwards, the following resolution memorializing the Board's decision on the application of **Paul & Nora Carlson, 408 Upper Mountain Avenue** was adopted, Mr. Whipple, Mr. Burr, and Mr. Tsai abstaining:

WHEREAS, Paul & Nora Carlson, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A. 40:55D-70c to construct a roof covering for the existing front entrance of the dwelling, on property designated as Lot 30 in Block 706 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, a variance is requested from Montclair Code Section 347-45B(1) in that the front yard setback of the proposed roof covering would be less than the required front yard setback; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on May 16, 2012 at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the applicant submitted a property survey dated November 30, 2007 and plans prepared by RMG, LLC revised April 24, 2012; and

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

1. The property is an interior lot located in the R-1 One-Family Zone and contains a single family dwelling with a detached garage/carriage house in the rear yard. The lot measures over 106 feet in frontage width and approximately 31,588 square feet in lot area.

2. A roof supported by columns is proposed over the existing front entrance. Based on the average front yard setback of the 4 nearest dwellings, 2 on each side of the subject property, the required front yard setback for the new construction is approximately 71 feet 4 inches.

3. The front yard setback of the proposed roof cover is 57 feet 3 inches and a variance is required for a front yard setback less than required.

4. The Board determined that the requested variance could be approved. The front yard setback average is skewed by the larger front yard setback of the properties to the south of the subject property. The proposed front yard setback is in keeping with that of the properties to the north, and the proposed construction is minimal in scale and provides functional and aesthetic benefits to the subject property; and

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the within application is hereby approved; and

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

On motion by Mr. Fleischer, seconded by Mr. Edwards, the following resolution memorializing the Board's decision on the application of **Eric Carlson & Bridget Eklund, 303 Highland Avenue** was adopted as modified, Mr. Whipple, Mr. Burr, and Mr. Tsai abstaining:

WHEREAS, Eric Carlson & Bridget Eklund, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A. 40:55D-70c for a proposed addition on the northerly side the dwelling, on property designated as Lot 32 in Block 602 on the Township Tax Map and located in the R-0 Mountainside Zone; and

WHEREAS, a variance is requested from Montclair Code Section 347-45B(1) in that the front yard setback of the proposed addition would be less than the required front yard setback; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on May 16, 2012 at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the applicant submitted architectural plans prepared by Modernlink Studio, dated May 16, 2012, and a grading and drainage plan by Petry Engineering, dated April 23, 2012; and

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

1. The property is an interior lot located in the R-0 Mountainside Zone. The lot measures 160 feet in width by 200 feet in depth, and contains a single family dwelling with an attached garage located on the northerly side of the dwelling.

2. In July 1980, the Board of Adjustment approved a front setback variance to construct the currently existing attached garage on the northerly side of the dwelling. The requirement for the front yard setback at that time was 50 feet. A variance was granted to permit a front yard setback of 33 feet for the addition.

3. In the current application, the existing attached garage and breezeway connection that was approved in 1980 would be demolished. An addition consisting of a new 2-car garage, mud room, and half-bath is proposed in the general area of the existing garage, but with a new design, shifted location, and with a different shape. The footprint of the new addition represents a reduction on square footage according to the plan. The footprint of the existing garage and connection to the dwelling is 862 square feet and is to be removed; the footprint of the new garage and connection to the dwelling is 842 square feet.

4. The minimum permitted front yard setback for new construction on the subject property is 50 feet, since the average front yard setback of the adjoining dwellings, pursuant to the zoning ordinance, is not more than 50 feet. The applicant is proposing a 36 foot front yard setback for the addition, which is 3 feet greater than the existing 33 foot front yard setback of the existing attached garage. A variance is requested for a front yard setback less than 50 feet.

5. The Board determined that the requested variance could be approved. The topography of the site creates difficulty in fully complying with the 50 foot front yard setback requirement. Additionally, the proposed construction will be set back farther than the existing garage and connection to the dwelling that it is replacing, and will be shorter in height with less volume within the front yard setback area. The proposal represents an improvement on any negative impact associated with the front yard setback of the existing condition and the variance that was previously granted; and

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the within application is hereby approved, subject to the following conditions:

1. The proposed central air conditioning units on the northerly side of the proposed garage addition shall be back at least 10 feet farther from the front property line than depicted on the plans submitted.

2. The applicant shall comply with the Board Engineer's report dated May 10, 2012.

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. Edwards, the following resolution memorializing the Board's decision on the application of **Valley National Bank, 529 and 539 Valley Road** was adopted, Chair Harrison, Mr. Whipple, Mr. Burr, and Mr. Tsai abstaining:

WHEREAS, Valley National Bank, did make application to the Board of Adjustment of the Township of Montclair for site plan approval to install an underground pneumatic tube system and canopy on property designated as Lots 3 and 4 in Block 1712 on the 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(2) to permit expansion of a nonconforming use contrary to Montclair Code Section 347-112.
2. A variance pursuant to N.J.S.A. 40:55D-70c to permit a one foot parking setback from the front property line where a 4 foot setback is required pursuant to Montclair Code Section 347-104.
3. A variance pursuant to N.J.S.A. 40:55D-70c to permit 11 parking spaces on Lot 4 where a minimum of 31 spaces is required pursuant to Montclair Code Section 347-101.
4. An exception pursuant to N.J.S.A. 40:55D-51 to permit parking spaces 8 feet wide by 17 feet in length where a minimum of 9 feet wide by 19 feet in length is required pursuant to Montclair Code Section 281-9B; and

WHEREAS, the applicant submitted preliminary/final site plans and architectural plans consisting of three sheets last revised July 5, 2011 prepared by Stern-Ring Associates, AIA, PA as revised by a site plan consisting of one sheet prepared by Lapatka Associates, Inc. dated May 3, 2012; and

WHEREAS, this matter came on to be heard at meetings of the Board of Adjustment held on February 15 and May 16, 2012, 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 on the easterly side of Valley Road north of the intersection with Northview Avenue. Lot 3 (529 Valley Road) consists of 9,651 square feet of lot area and is improved with a one story drive-thru bank building with three drive-thru aisles and three parking spaces. Lot 4 (539 Valley Road) consists of

7,885 square feet of lot area and is improved with a two story office building and twelve parking spaces (including one handicap parking space). The branch bank occupies a portion of the first floor and the remainder of the building is occupied by office use unrelated to the bank.

2. The application contemplates installation of an underground pneumatic tube system to connect the drive-thru on Lot 3 with the branch bank on Lot 4. A 7.5 foot by 7 foot extension of the drive-thru roof canopy is proposed in order to hide the pneumatic tubes.

3. The site plan has been revised to provide a number of improvements including but not limited to (a) eliminating the curb opening along the northerly frontage that did not appear to have a purpose; (b) elimination of two parking spaces partially located in the right-of-way; (c) a handicap parking space has been added which resulted in a loss of one parking space; (d) landscaping has been added around the dumpster area and north and south side of the parking areas; (e) a five foot wide sidewalk is shown adjacent to the building entrance and the existing concrete wheel stops have been eliminated; (f) Belgian block curbing has been added along the south side of the parking lot.

4. The branch bank operates Monday through Friday 8:00 a.m. to 6:00 p.m. and 9:00 a.m. to 1:00 p.m. on Saturday. The drive-thru currently operates 9:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 1:00 p.m. on Saturday. There would be no operational changes to the site other than converting the drive-thru to an unmanned operation and to open the drive-thru one hour early Monday through Friday consistent with the hours of the branch bank.

5. The site currently contains the branch bank and drive-thru and is particularly suited for the minimal expansion contemplated herein and is of sufficient size to accommodate the proposed minor changes and the testimony established safe and efficient vehicular on-site traffic circulation.

6. 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 public health, safety, morals and general welfare (-2a); provides sufficient space in an appropriate location for the proposed use (-2g) and promotes a desirable visual environment (-2i).

7. The application requires relief relating to size of parking spaces, number of parking spaces and parking setback. The size of the parking spaces, the inability to provide required number of parking spaces and parking setback are dictated by the irregular shape of the property and the location of the existing building which results in peculiar and exceptional practical difficulties and undue hardship upon the applicant. Although the redesigned parking area results in the loss of a parking space, the overall

layout is improved eliminating the two parking spaces partially located in the right-of-way.

8. The Board determined this application is harmonious with existing development and will not harm the quality of life of surrounding neighborhoods consistent with the goals of the Master Plan.

9. Based upon the Board's particular knowledge of local conditions, the minimal expansion of this use will have little or no impact on 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 aforementioned findings, concluded that with respect to the bulk variances, the applicant did prove peculiar and exceptional practical difficulties and exceptional and undue hardship and that the variances could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance pursuant to N.J.S.A. 40:55D-70c(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that with respect to the bulk variances, the applicant did prove 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 Valley National Bank for site plan approval and variance pursuant to N.J.S.A. 40:55D-70d(2) to expand a nonconforming use as well as the relief outlined herein is hereby approved subject to the following conditions:

1. The applicant shall comply with the following items as contained in the report issued by W. Thomas Watkinson, Montclair Zoning Board Engineer, dated May 15, 2012:

a. The uneven concrete sidewalk slabs along the Valley Road frontage shall be reset or replaced.

b. The applicant's engineer shall submit an itemized construction cost estimate of site improvements (exclusive of building work) for determination of inspection escrows.

2. The applicant shall obtain Essex County Planning Board approval.

3. The applicant shall be responsible for all inspection fees required under Montclair Code Section 202-27 as well as escrow fees incurred in connection with review of this matter

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

On motion by Mr. Fleischer, seconded by Mr. Edwards, the following resolution memorializing the Board's decision on the application of **54 Plymouth Street, LLC, 54 Plymouth Street** was adopted as modified, Mr. Whipple, Mr. Burr, and Mr. Tsai abstaining:

WHEREAS, 54 Plymouth Street, LLC, as owner, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A. 40:55D-70d(1) to permit general/professional office use on the second floor of the building contrary to Montclair Code Section 347-113 at the above-captioned property designated as Lot 10 in Block 1304 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a site plan consisting of one sheet prepared by Matarazzo Engineering, LLC dated December 8, 2011 as well as a survey prepared by Teunisen Surveying & Planning Co., Inc. dated June 15, 1998; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on May 16, 2012, 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 on the southwest corner of Orange Road and Plymouth Street and is improved with a two-story office building pursuant to a use variance for medical office use recommended by the Board of Adjustment by resolution adopted on December 7, 1971 and approved by the Board of Commissioners. The site contains 21 parking spaces located to the south and west of the building.

2. The first floor of the building consisting of 1,830 square feet is currently utilized as medical offices specifically for the practice of dental surgery. The second floor consisting of 1,410 square feet was previously used for a medical office, however, it has been vacant since January 2011 despite efforts to obtain a medical office tenant.

3. The site is particularly suited for the proposed use and the proposed change to general/professional office on the second floor of the building results in a reduction in parking demand based upon the parking requirements contained in Montclair Code Section 347-101.

4. The testimony established that 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); encourages coordination of procedures resulting in more efficient use of land (-2m) and promotes a desirable visual environment through creative development techniques and good civic design and arrangements (-2i).

5. Approval of the application is not inconsistent with the intent and purpose of the Master Plan or Zoning Ordinance.

6. Based upon the Board's particular knowledge of area land uses and local conditions, the within development application is not inconsistent with the character of the development in the area and will not adversely impact the public good but rather, will result in an overall benefit to the area.

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

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of 54 Plymouth Street, LLC for a use variance to permit general/professional office use on the second floor of the building is hereby approved subject to the following conditions:

1. The plans shall be revised to eliminate the two most easterly parking spaces and provide curbing and a planted area of at least three staggered evergreens three feet in height to shield the parking.

2. The plans shall be revised to convert three of the parking spaces to the south of the building into two handicapped spaces and convert the existing substandard handicapped space in the southwest corner to a regular parking space.

3. The second floor use is limited to general/professional office and medical offices are prohibited.

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

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. Reynolds joined the meeting.

The application of **Elaine Fiveland, 262 North Fullerton Avenue** was announced. The applicant and George Held, Architect were sworn. Mr. Held described the application. The property is an interior lot located in the R-1 One-Family Zone and contains a single family dwelling with a detached garage in the rear yard. The lot is irregular in shape, measures 50.24 feet in frontage width and approximately 6761.5 square feet in lot area. The existing dwelling has an existing nonconforming northerly side yard setback of 4.78 feet measured at the northerly rear corner of the dwelling, where a minimum side yard setback of 6 feet is required. A one story addition measuring 5 feet 6 inches by 8 feet 6 inches is proposed at the rear of the dwelling, to be aligned with the northerly side wall of the dwelling, and would continue the existing nonconforming northerly side yard setback of 4.78 feet, and a variance is requested. The addition would contain a portion of a renovated and expanded kitchen and a new half bathroom. No other variances are required.

Exhibits marked:

- A-1 Plans submitted with color added
- A-2 Photographs of the subject property

The Board briefly questioned the applicant. Mr. Held and the applicant confirmed that certain shrubs near the proposed addition will have to be removed. There were no questions or comments from the public. The Board discussed the application and determined that the requested variance could be approved. The proposed addition is small in size, is aligned with the existing walls of the dwelling, and provides a functional benefit to the occupants of the dwelling. Additionally, the requested variance will not have a negative impact on any nearby property. On motion by Mr. Fleischer, seconded by Mr. Whipple, the application was approved.

The application of **Matthew & Marisa Beneventi, 44 College Avenue** was announced. The Mr. Beneventi and Kurt Vierheilig, Architect were sworn. Mr. Vierheilig provided his qualifications and described the application. The property is a corner lot at the intersection of College Avenue and Hamilton Terrace, located in the R-1 One-Family Zone. The lot contains a single family dwelling with an attached garage accessed by a

driveway from Hamilton Terrace. The lot measures 6,130 square feet in lot area. As a corner lot, the property has two front yards: one along each street frontage. The required Hamilton Terrace front yard setback for new construction on the subject property is 25.45 feet, which is the average front yard setback of the 2 nearest dwellings located to the west on Hamilton Terrace. The existing dwelling has a nonconforming Hamilton Terrace front yard setback of 15 feet measured at the southeasterly front corner of dwelling. The setback increases slightly moving westerly along the façade, but remains nonconforming. An addition is proposed to the 2nd floor of the dwelling, aligned with an existing area of the 1st floor that is set back 15 feet 6 inches from the Hamilton Terrace front property line. A variance is requested to permit a front yard setback of 15 feet 6 inches for the new construction, where a minimum of 25.45 feet is required. The addition would contain a new master bathroom. No other variances are required.

The Board briefly questioned the applicant. Mr. Vierheilig described the plans further regarding the effect of the addition on the existing rooflines. There were no questions or comments from the public. The Board discussed the application and determined that the requested variance could be approved. The proposed addition is relatively small in size, is aligned with the existing walls of the dwelling, and provides a functional benefit to the occupants of the dwelling. Additionally, the requested variance will not have a negative impact on any nearby property. On motion by Mr. Whipple, seconded by Mr. Burr, the application was approved.

The application of **Kumar Singh, 16 Rosedale Avenue** was announced. Kumar and Indira Singh were sworn. Mr. Singh described the application. The property is an interior lot measuring 40 feet in width and 3,845 square feet in lot area. The property is located in an R-2 Two-Family Zone and contains a two family dwelling with a detached garage in the rear yard. An existing metal stairway and landing leading out from a bedroom window at the rear of the dwelling would be removed. A new wooden landing and stairway to the 2nd floor is proposed at the rear of the dwelling. A new doorway is also proposed at the 2nd floor to provide access to the new landing and stairway into the rear yard. The existing metal landing and stairway is aligned with the westerly side wall of the dwelling, which has a nonconforming side yard setback of 3.18 feet, where a minimum of 6 feet is required. The proposed wooden landing and stairway would be set back 3.43 feet from the westerly side property line, which requires a variance but slightly improves the nonconformity. The proposed stairway would also be slightly longer, extending the nonconforming side yard setback deeper into the rear yard by approximately 1 foot. The existing dwelling, landing, and stairways, occupy 30.3 percent of the lot area, where a maximum of 25 percent is permitted. With the additional area added with the new landing and stairway, the principal building lot coverage will increase to 33.5 percent and a variance is requested. No other variances are required.

The Board briefly questioned the applicant. Mr. Singh indicated that he, his wife, and child reside on the second floor of the two-family dwelling. He also indicated that although there are 3 mailboxes on the dwelling, there are only 2 dwelling units. Ms. Singh indicated that the first floor window that would be partially obscured by the new

stairway is a common hallway window and would not affect the first floor occupant. There were no questions or comments from the public. The Board discussed the application and determined that the requested variances could be approved. The small lot size and narrow lot width along with the position of the existing dwelling make it impossible to fully comply with the zoning ordinance. The proposed landing and stairway are replacing a similar existing condition, and the proposal represents an improvement in safety and aesthetics. Additionally, the requested variances will not have a negative impact on any nearby property. On motion by Mr. Whipple, seconded by Mr. Edwards, the application was approved, subject to the following condition:

1. The use of the property shall be limited to a one-family or two-family dwelling.

The application of **Joseph Martella & Susan Baer, 21 Norman Road** was announced. Mr. Martella was sworn and described the application. The property is an interior lot measuring 81.82 feet in width and 12,273 square feet in lot area. The property is located in an R-1 One-Family Zone and contains a single family dwelling with a detached garage in the rear yard. The existing detached garage had a flat roof, which was recently required to be removed due to its deteriorated condition. A typical gable roof is proposed on the existing garage. The proposed gable roof would slope to the east and west. The footprint of the existing garage has a nonconforming westerly side yard setback of 0.39 feet and a nonconforming rear yard setback of 1.9 feet, both at westerly rear corner of garage. The minimum setback from side and rear property lines for the new construction above and beyond what existed with the flat roof is 6 feet. The proposed gable roof will increase the size and volume of the garage within 6 feet of the westerly side and rear property lines and variances are requested. No other variances are required.

The Board questioned the applicant. Mr. Martella indicated that the proposed design of the roof was intended to correlate to the architecture of the dwelling. He stated that no roof gutters are proposed since they would overhang the property line. The storm water would run off of the roof surface, and on the westerly side due to the grade which slopes towards his garage, the water would be collected by a French drain to be installed in the ground and channeled to a dry well in the rear yard. Several questions about the existing driveway were also clarified. There were no questions or comments from the public.

The Board discussed the application and determined that the requested variances could only be approved with modifications to the plan described below, so as to eliminate any negative impact on an adjoining property. The Board determined that the gable roof should be switched to slope to the front and rear of the garage, which will allow for gutters on the front and rear of the garage to collect storm water and discharge into the applicants yard on the east side of the garage. The applicant has the option of installing a dormer in the sloping roof at the front of the garage in order to retain some of the design element that was intended with the initial design having a gable end at the

front. On motion by Mr. Fleischer, seconded by Mr. Burr, the application was approved, subject to the following conditions:

1. The garage roof shall be redesigned so that it will slope to the front and rear of the garage only.
2. Gutters must be installed and maintained on front and rear of the garage roof.
3. Storm water collected from the garage roof must be directed to the east side of the garage into the applicant's rear yard and away from the westerly side and rear property lines.

The application of **Samantha & Adam Kaplan, 251 South Mountain Avenue** was announced. Susan Rubright, Esq., gave her appearance. Ms. Rubright called Adam Kaplan, applicant, who was sworn and described the application. Mr. Kaplan stated that he and his family currently reside in Livingston and described their interest in residing in Montclair and their search for a property in Montclair. He described the process he has been engaged in regarding the purchase of the subject property and reaching out to the neighbors about the proposed construction of a new dwelling. He described the existing dwelling and stated that it is not particularly characteristic of the neighborhood. The Board had no questions for Mr. Kaplan at this time. No questions were offered by the public.

Exhibits marked:

- A-1 Six photographs of the existing dwelling and nearby dwellings
- A-2 Six photographs of the existing dwelling and nearby dwellings
- A-3 200 foot radius map
- A-4 Five photographs of existing nearby dwellings
- A-5 Six photographs of existing nearby dwellings
- A-6 Two photographs of existing nearby dwellings

J. Michael Petry, Professional Engineer and Professional Planner, was sworn and described the application. The property is an interior lot measuring 105.98 feet in frontage width and 20,287 square feet in lot area. The property is located in an R-0 Mountainside Zone and contains a single family dwelling with an attached garage along the front facade. Variances are requested to demolish the existing dwelling and construct a new single-family dwelling. The new dwelling would have a garage at grade level along the southerly side of the dwelling. The new driveway would enter the property from the street in the same location as the existing driveway along the northerly side of the frontage, and would cut across the front yard and turn into the southerly side yard to access the proposed garage area. The zoning ordinance requires a lot frontage width of 150 feet for a new dwelling at this location in the R-0 Zone. The existing lot frontage width of 105.98 feet is nonconforming and a variance is requested

to permit a new dwelling on a lot of less than 150 feet of lot width. The dwelling as proposed is considered to be 3 stories in design which is notable along the side elevations and the rear elevation, and a variance is requested to exceed 2½ stories. The zoning ordinance limits the driveway gradient to a maximum of 10 percent within 20 feet of a property line. A variance is requested in that a portion of a new driveway will exceed a 10 percent gradient within 20 feet of the southerly side property line.

The Board questioned Mr. Petry. Mr. Petry also indicated that he will be preparing a grading and drainage plan to be reviewed by the Board Engineer, and that the proposed contours depicted on the Architect's site plan may be changed to the satisfaction of the Board Engineer. No questions or comments were offered from the public.

Exhibits marked:

- A-7 Site Plan, by Barry Jay Kaplan, Architect, with color added
- A-8 Aerial Photograph, by Petry Engineering
- A-6 Photographs of the subject property and nearby properties

Barry Jay Kaplan, Architect, was sworn and provided his qualifications. Mr. Kaplan described the plans submitted. He described the rough grading contours shown on his site plan which are not intended for engineering purpose. Mr. Petry will fine tune the grading and drainage plan with new contours. He explained that the driveway gradient based on the rough contours provided is steepest along the southerly side of the dwelling, where it is approximately 13.5 percent. He also described the difficulty with moving the garage location to the north side of the house, which would result in a steeper driveway, or require more extensive regrading and tree removal than what is proposed. The Board questioned Mr. Kaplan. He clarified how he came to his driveway slope calculation. He stated that he took the elevation from the start of the driveway at the front property line down to the 91 foot contour where the driveway approaches the garage, which does not include the long generally flat area at the end of the driveway. Mr. Kaplan also stated that the dwelling is currently designed with a 35 foot maximum height. No questions or comments were offered from the public.

The Board discussed the application and determined that the requested variances could be approved subject to the conditions listed below. The lot with its existing frontage width has contained a single family dwelling since approximately 1960. There is no practical way or opportunity to enlarge the lot width without creating new nonconformities for the adjoining lots. The design of the dwelling in terms of the number of stories and the driveway gradient is caused by the existing steep grade of the lot and is a typical characteristic of dwellings and properties in the neighborhood. The plan as proposed seeks to limit these factors in every way that is practical while limiting the impact to the nearby properties. On motion by Mr. Whipple, seconded by Mr. Fleischer, the application was approved, subject to the following conditions:

1. The applicant shall retain the services of an Arborist or Landscape Architect to provide guidance on measures to protect the trees indicated to remain on the plan submitted.
2. A grading and drainage plan shall be submitted for review and approval by the Board Engineer prior to any construction. The applicant shall be responsible for escrow fees associated with the Board Engineer's review of plans and inspection of site work.
3. The applicant shall, in connection with the development of a grading and drainage plan and the guidance provided by an Arborist or Landscape Architect on tree protection, confirm that that design of the westerly end of the driveway and the regrading proposed adjoining that area of the driveway is appropriately designed so as to prevent storm water runoff from negatively impacting an adjoining property and also to not cause harm to existing trees in that area of the site.
4. The section of the driveway entering the site from South Mountain Avenue that is perpendicular to South Mountain Avenue shall not exceed a 10 percent gradient within 20 feet of the front property line.
5. The applicant shall be responsible for any Development Fee required by Chapter 202 Article VI of the Township ordinance for the proposed single-family dwelling.
6. The zoning chart on the plans shall be corrected to reflect the variance required for lot frontage width

On motion by Mr. Fleischer, seconded by Mr. Burr, the meeting was adjourned.