

MINUTES OF THE BOARD OF ADJUSTMENT
July 16, 2008

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

ABSENT: Ms. English, Ms. Holloway, and 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. Fleischer, seconded by Mr. Susswein, the **Minutes of the February 20, 2008** regular meeting were adopted. On motion by Mr. Susswein, seconded by Ms. Cockey, the **Minutes of the February 27, 2008** special meeting were adopted as modified, Chair Harrison abstaining. On motion by Mr. Fleischer, seconded by Mr. Susswein, the **Minutes of the March 19, 2008** regular meeting were adopted. On motion by Mr. Susswein, seconded by Ms. Cockey, the **Minutes of the March 26, 2008** special meeting were adopted, Chair Harrison and Ms. English abstaining.

On motion by Mr. Fleischer, seconded by Mr. Rubenstein, the following Resolution memorializing the approval of the application of **James Foley and Susan Yoo, 149 North Mountain Avenue** was adopted, Chair Harrison abstaining:

WHEREAS, James Foley and Susan Yoo, owners of property at **149 North Mountain Avenue**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70c to allow a side yard setback less than that required pursuant to **Montclair Code Section 347-45C(1)** in connection with the construction of an addition on property designated as Lot 19 in Block 1604 on the Township Tax Map and located in the R-1 One Family Zone; and

WHEREAS, the applicants submitted a property survey dated July 21, 1993 and a plot plan, floor plans, and elevations, undated, prepared by the applicants; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on June 18, 2008 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 and is located in the R-1 One-Family Zone. The property measures 50 feet in width and 7,308 square feet in area, and contains a single-family dwelling and a detached garage.

2. On July 19, 2000 the Board of Adjustment approved an application for a northerly side yard setback variance in connection with an addition at the rear of the dwelling. The applicant did not build the proposed addition due to personal circumstances and the variance expired. The plan submitted for the current application matches the plan that was previously approved.

3. A one-story addition is proposed at the rear of the dwelling that would align with the northerly side wall of the existing dwelling. The existing dwelling has a nonconforming northerly side yard setback of 3.74 feet at the northerly rear corner, where a minimum of 6 feet is required.

4. The proposed addition will extend 12 feet further back than the existing dwelling. The northerly side property line is angled in relation to the dwelling, which causes the side yard setback of the proposed addition to be reduced from the existing 3.74 down to 3.61 feet.

5. The proposed addition complies with all other zoning requirements.

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicants proved peculiar and exceptional practical difficulties and exceptional and undue hardship and did 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, based on the aforementioned findings, concluded that the applicants 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 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 variance application of James Foley and Susan Yoo is hereby approved, subject to the following condition:

1. The applicant shall screen the foundation of the addition with appropriate landscaping.

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. Susswein, the following Resolution memorializing the approval of the application of **Ken and Abby Colen, 215 South Mountain Avenue** was adopted, Chair Harrison abstaining:

WHEREAS, **Ken and Abby Colen**, owners of property at **215 South Mountain Avenue**, did make application to the Board of Adjustment of the Township of Montclair pursuant to N.J.S.A. 40:55D-70c for a variance from **Montclair Code Section 347-33A(2)** to allow more than 2½ stories in connection with a proposed addition to their dwelling on property designated as Lot 1 in Block 1102 on the Tax Map of the Township of Montclair and located in the R-0 Mountainside Zone; and

WHEREAS, the applicants submitted architectural drawings with a plot plan, floor plans, and elevations prepared by Oasis Architecture, dated April 18, 2008; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on June 18, 2008, 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 corner lot located at the intersection of South Mountain Ave and Llewellyn Road. The subject property measures 14,095 square feet in area; the frontage width measures 115.71 feet on South Mountain Avenue and 110.37 feet on Llewellyn Road.

2. The subject property is located in the R-0 Mountainside Zone, and contains a single-family dwelling and surface parking in the front yard accessed by a driveway from Llewellyn Road.

3. An addition is proposed on the easterly side of the dwelling that will include a basement plus 2 levels. Due to the grade level of property, which slopes downward away from South Mountain Avenue, the first floor level of the addition is more than 6 feet above the adjoining grade level, thereby making the basement level at these areas of the dwelling a story above grade, and the addition a total of 3 stories, which exceeds the maximum of 2½ stories permitted.

4. The height of the addition complies, measuring 31-8¾ feet in height from the grade level of the addition. The proposed addition also complies with all other zoning requirements. The proposed nonconformity is caused by the existing grade levels around the dwelling and is a common condition in various forms for properties in the neighborhood.

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); and

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

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. Susswein, seconded by Mr. Rubenstein, the following Resolution memorializing the approval of the application of **Akio Kaneda, 608 Valley Road** was adopted, Mr. Fleischer abstaining:

WHEREAS, Akio Kaneda, as owner, did make application to the Board of Adjustment of the Township of Montclair for site plan approval to construct additions to the rear and northerly side of the existing building on property designated as Lot 6 in Block 2601 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(6) to permit building height of 28 feet where a maximum of 24 feet is allowed pursuant to Montclair Code Section 347-95A(1).
2. A variance pursuant to N.J.S.A. 40:55D-70c to allow a rear yard setback of 11.04 feet at the first floor and 8.58 feet at the second floor bay extension where a minimum of 20 feet is required pursuant to Montclair Code Section 347-95C(3).
3. A variance pursuant to N.J.S.A. 40:55D-70c for failure to provide 14 additional on-site parking spaces as required by Montclair Code Section 347-101.
4. A variance pursuant to N.J.S.A. 40:55D-70c to permit a sign which does not face a public street or public parking lot contrary to Montclair Code Section 347-110.

WHEREAS, the applicant submitted a site plan, architectural plans and details prepared by Oasis Architecture and Planning, PC, Sheets SK-1 through SK-3 dated March 10, 2008 and an alternate elevation Sheet SK-3 dated June 6, 2008 as well as a survey prepared by Richard J. Hingos dated March 27, 1996; and

WHEREAS, this matter came on to be heard at regular meetings of the Board of Adjustment held on May 21 and June 18, 2008 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 a two story mixed use commercial and residential building with detached garage at the rear of the property. The property is 21.1 feet wide and measures 2,488 square feet in area. The rear property line abuts a municipal parking lot.

2. The proposed additions would connect the existing two story principal building with the detached garage creating a unified two-story structure from front to back. The additions include a second story over the one story portion of the existing building on the northerly side, a two story addition connecting the existing building with detached garage at the rear and a second story over the garage. The first floor addition between the existing building and the garage will be used as a kitchen area and vestibule. The second floor will contain an expanded restaurant area and restaurant offices expanding over the existing garage.

3. The height of the building additions matches the height of the existing building and provides adequate light, air and open space as well as a dramatic aesthetic improvement consistent with the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et. seq.

4. The applicant originally proposed a "stepped" or "saw tooth" parapet design which was approved by the Montclair Historic Preservation Commission (HPC) by Resolution and Certificate of Appropriateness adopted on March 20, 2008. The Board expressed concern over the original design which unnecessarily increased the perception of scale and massing of the additions. The Board determined the sloped parapet alternative depicted on Sheet SK-3 dated June 6, 2008 was aesthetically more attractive and minimized the scale of the additions.

5. The building has a preexisting nonconforming rear yard setback of 11.04 feet. The proposed additions will result in a rear yard setback of 11.04 feet at the first floor and 8.58 feet at the second floor bay extension. The additional intrusion into the rear yard is de minimis and the location is appropriate based upon the existing development of the site and its proximity to the adjacent municipal parking lot.

6. The application does not provide any additional on-site parking spaces despite the fact that the development requires 14 additional spaces as per Section 347-101. The Board determined there are a number of public lots in the area in addition to the adjacent municipal lot to the rear of the subject property which can accommodate the parking demand generated by this application.

7. Although the building mounted sign on the southern façade does not face a public street or public parking lot as required by Section 347-110, it does facilitate identification of the site in a manner which avoids any adverse impact and is appropriate given the layout of the site.

8. 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.

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 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 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 Akio Kaneda for site plan approval and variances for building height, rear yard setback, number of parking spaces and sign placement is hereby approved subject to the following conditions:

1. The plan shall be revised to incorporate the redesigned sloped parapet; additional second floor window and elimination of the door on the northerly side as depicted on Sheet SK-3 dated June 6, 2008 and the applicant shall obtain revised HPC approval.

2. Prior to the commencement of construction, the applicant shall obtain an easement from the owner of Block 2601, Lot 6.01 to provide the contemplated access to the southerly side entrance of the building and the existing garage.

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

4. The height of the proposed parapet whether designed for flammable or nonflammable materials shall not exceed the maximum permitted by the applicable construction code.

5. The building is limited to two stories at a height not to exceed 28 feet.

6. Roof leaders from the rear of the building shall be connected directly underground to the existing adjacent stormwater inlet in the municipal parking lot as recommended in paragraph 3 of a memorandum from W. Thomas Watkinson, Montclair Zoning Board Engineer, dated April 5, 2008.

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. Cockey, the following Resolution memorializing the approval of the application of **Julius and Susan DeSantis, 10 Clinton Avenue** was adopted:

WHEREAS, Julius and Susan DeSantis, as owners of property located at 10 Clinton Avenue, Montclair, New Jersey (hereinafter "the property"), did make application to the Montclair Township Board of Adjustment (hereinafter "the Board") in order to construct a detached garage on the property, designated as Lot 6 in Block 1301 on the Montclair Township Tax Maps and located in the R-O Mountainside Zone; and

WHEREAS, the applicants requested relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70c to permit the detached garage to have a northerly side yard setback of 3 feet where a minimum of 12 feet is required under Montclair Code Section 347-34A(2)(a); and

WHEREAS, the applicants submitted a site plan, garage floor plan, and garage elevations prepared by Sionas Architecture, P.C. revised through October 16, 2007 (Sheet A-1); and

WHEREAS, the matter came on to be heard at a meeting of the Board held on June 18, 2008, 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 and exhibits, including the testimony of the applicants' architect and professional planner and the questions and testimony of certain neighbors who appeared at the public hearing, and based thereon established the following findings:

1. The property is an interior lot that is undersized in required lot area and also in required lot width in that the prescribed lot area is 20,000 square feet and the

existing lot area is 18,840 square feet and the prescribed lot width is 100 feet and the existing lot width is 78.83 feet;

2. The property contains a Tudor-style single-family home along with a driveway along the north side of the property that leads into the rear yard and around to the southwest corner of the rear yard, where formerly there was a garage and apartment that have been taken down by a former owner of the property;

3. Currently, there is no garage on the property;

4. The applicants propose to construct a new detached garage in the rear yard, however, they propose to place it along the north side of the property and closer to their home;

5. The applicants also propose to remove the rear portion of the existing driveway and a large asphalt area in the rear yard, to shorten the driveway, and to realign the driveway so that it will lead directly to and stop at the garage;

6. The proposed garage complies with all zoning ordinance requirements except that pertaining to north side yard setback because the required side yard setbacks are 18 feet for one yard and 12 feet for the other yard, and the applicants propose 53.83 feet for the south side yard and 3 feet for the north side yard;

7. The proposed garage is closer to the applicants' home (compared to the former garage) and provides increased convenience, protection from inclement weather, and enclosure from public view.

8. The project restores approximately 1,600 square feet of lawn, retains existing lawn, maximizes open areas and planting areas, and provides a north side yard that is adequate for access and maintenance;

9. With respect to the variance to permit a decreased north side yard setback, the Board concludes that this particular variance can be granted provided that the side yard setback is no less than 6 feet and provided that the overall length of the garage is shortened from 28 feet to 26 feet, thereby bringing the side yard setback more into conformance with the zoning ordinance and providing less mass along the north side property line;

10. Whereas the existing undersized lot width gives rise to practical difficulties in that the applicants have approximately 21 feet less lot width than contemplated by the zoning ordinance, the Board concludes that the project as proposed by the applicants serves several purposes of zoning set forth at N.J.S.A. 40:55D-2, including providing garage space for residential use (zoning purpose g), maximizing open space, (zoning purposes c and j), restoring green space (zoning purpose i), and promoting a desirable visual environment with reasonable arrangement and design (zoning purpose i);

11. There is no substantial impairment of the intent and purpose of the zone plan or zoning ordinance, and there is no substantial detriment to surrounding properties: The project meets all zoning ordinance requirements except with regard to north side yard setback, and the requested variance, as adjusted by the Board, represents a relatively minor deviation from the zoning ordinance requirements. In addition, there are several detached garages adjacent to the property that have side yard setbacks between 1 foot and 6 feet; much of the proposed garage will be placed over existing impervious area; the closest neighbors to the north are separated by an existing 6-foot stockade fence and substantial plantings; and the proposed garage is thoughtful in its design and detail;

12. By eliminating impervious surfaces and preserving existing pervious surfaces, the project brings benefit to the surrounding properties;

13. 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 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 foregoing 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 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 Julius and Susan DeSantis, for permission to construct a new detached garage and a variance with respect to the north side yard setback of the proposed garage, is hereby approved subject to the following conditions:

1. The north side yard setback of the new detached garage shall be increased from 3 feet to 6 feet from the north side property line;

2. The overall length of the new detached garage shall be shortened from 28 feet to 26 feet so that the rear or west elevation of the garage shall be 2 feet further east from the rear or west property line.

3. The driveway leading to the new detached garage shall be reconfigured west of the existing home so that the north side of the driveway corresponds to the increased side yard setback of 6 feet.

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. Rubenstein, the following Resolution memorializing the approval of the application of **Thomas Rose and Peter Wert, 272 Valley Way** was adopted, Chair Harrison abstaining:

WHEREAS, Thomas Rose and Peter Wert, as owners, did make application to the Board of Adjustment of the Township of Montclair to modify a condition imposed by our prior approval of the Board in connection with the construction of an inground swimming pool and related improvements on property designated as Lot 20 in Block 103 on the Township Tax Map and located in the R-1 One Family Residential Zone; and

WHEREAS, the applicants specifically requested relief from condition 2 contained in the Board's December 12, 2000 resolution; and

WHEREAS, the applicants submitted a site plan prepared by D.J. Egarian & Associates, Inc. dated March 24, 2008 revised June 5, 2008 as well as a survey prepared by DMC Associates, Inc. dated November 16, 2004; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on June 18, 2008, 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. By resolution adopted December 12, 2001 the Board granted variance relief as well as relief pursuant to N.J.S.A. 40:55D-35, 36 in connection with the construction of a single family home and related improvements.

2. By resolution adopted June 16, 2004, the Board approved an application to amend conditions 3, 4 and 10 of the December 12, 2001 resolution in connection with the extension of the paved driveway leading from Valley Way.

3. By resolution adopted January 19, 2005, the Board approved an application to amend condition 4 of the December 12, 2001 resolution eliminating the requirement to construct a 16 foot wide gravel driveway for emergency access.

4. The applicants seek relief from condition 2 contained in the Board's December 12, 2001 resolution which states: As set forth in the site plan, the applicants' development shall be limited to one single family dwelling without accessory structures on Block 103, Lot 20."

5. The subject property is landlocked and has no street frontage. The lot is accessed via a private driveway from Valley Way consistent with prior approvals of the Board. The applicants now propose an inground swimming pool on the easterly side of the property and related improvements including pool equipment (filter and heater), an outdoor fireplace and countertop, fence, expanded paver patio area, expanded deck area and lighting.

6. The proposed swimming pool complies with Section 305-6 of the Ordinance, which regulates the location of pools on lots; however, approval requires modification of condition 2 which prohibits any accessory structures. The purpose of this condition was to ensure accessory structures would not interfere with access by fire fighting equipment, ambulances and other emergency vehicles.

7. The Board determined the proposed swimming pool and related improvements will not interfere with emergency vehicle access and represents a reasonable request consistent with the intent and purpose of the original approval.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicants' request for relief from a prior condition of the Board was reasonable and consistent with the original approvals granted pursuant to N.J.S.A. 40:55D-70c(2) and N.J.S.A. 40:55D-35, 36;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Thomas Rose and Peter Wert to modify condition 2 of the Board's December 12, 2001 resolution to permit a swimming pool and related improvements as set forth on the site plan prepared by D.J. Egarian & Associates, Inc. dated March 24, 2008 revised June 5, 2008 is hereby approved subject to the following conditions:

1. Subject to review and approval of changes in the drywell configuration as well as compliance with the recommendations contained in the memorandum dated June 12, 2008 from W. Thomas Watkinson, Zoning Board Engineer.

2. The proposed fence shall be relocated towards the pool a minimum of 4 feet from the retaining wall to provide the necessary separation to conform to the applicable height ordinance.

3. The applicants shall install plantings to shield the fence from the view of adjacent neighbors.

4. The proposed lighting shall not exceed 4 feet in height and shall be shielded so that the light source is not visible by neighbors.

5. The applicants shall install the landscaping plan marked as "Exhibit A-1" at the public hearing subject to modification, review and approval by the Planning Office.

6. All conditions imposed by the December 12, 2001, June 16, 2004 and January 19, 2005 resolutions not inconsistent with the within modification shall remain in full force and effect.

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 application of **Wallwood Gardens, Inc, 400 Orange Road** was adjourned to the September 17, 2008 regular meeting of the Board, at the applicant's request. The Board did not extend the public notice, so the applicant would be required to complete a public notice for the September 17, 2008 date. The Board also approved the applicant's request for an extension of time on the variances granted for an additional 6 months.

Chair Harrison called the application of **Mary and Kurt Switala, 43 Carolin Road**. Kurt Switala was sworn and described the application. The property contains a 2½-story single-family dwelling and a driveway leading to a location in the rear yard where a detached garage existed prior to being demolished after being badly damaged during the July 2006 microburst storm. The previously existing garage had a nonconforming westerly side yard setback of 3 feet and a conforming rear yard setback of 7.5 feet. A detached garage is proposed in the same area of the rear yard as the existing garage but the footprint would be enlarged by approximately 2 feet in width to the east to measure 18 feet in width by 22 feet in length. A variance is requested in that a westerly side yard setback of 3 feet from the property line is proposed and a minimum side yard setback of 6 feet is required. A conforming height of 15 feet is proposed. The proposed garage complies with all other zoning requirements.

The Board questioned Mr. Switala. He stated that the garage footprint is being slightly enlarged, but that the setbacks are not being reduced. No questions and comments were offered from the public. The Board discussed the application. The Board determined that the proposed garage can be approved since its location is consistent with the previously existing garage, and is also similar to that of many detached garages in the neighborhood. On motion by Mr. Fleischer, seconded by Mr. Susswein the application was approved.

Chair Harrison called the application of **Mr. and Mrs. Stanley Mullins, 86 Wildwood Avenue**. Stanley Mullins, and George Held, Architect and Planner, were sworn. Mr. Held described the application.

Marked into evidence were:

- A-1 Existing Floor Plans
- A-2 Existing Elevations
- A-3 Photograph of the front
- A-4 Photograph of the southerly side
- A-5 Photograph of the rear
- A-6 Photograph of the rear

The subject property is an interior lot located in the R-1 One-Family Zone, and measures 50 feet in lot frontage width, 99.87 feet in depth, and 4,993.5 square feet in lot area. The subject property contains a 2-story single-family dwelling with an attached one car garage. An existing one-story section located at the rear and easterly side of the dwelling would be removed and a larger one-story addition across the rear of the dwelling is proposed. The addition contains a family room, kitchen, and breakfast area. The existing dwelling has a nonconforming westerly side yard setback of 5.73 feet and a nonconforming easterly side yard setback of 7.41 feet, as measured to the one-story section being removed. The easterly side wall of the addition was proposed to be set back 8.41 feet from the easterly side property line where a minimum of 10 feet is required. The existing dwelling has a nonconforming width of 36.86 feet where a maximum of 32.5 feet is permitted. The subject property is 99.87 feet deep, and the rear yard setback requirement is 29.96 feet or 30 percent of the lot depth. The existing dwelling has a conforming rear yard setback of 34.97 feet to the one-story section at the rear being removed. Rear yard setbacks of 27.56 feet and 28.56 feet are proposed to the rear walls of the breakfast area and kitchen, respectively. The existing dwelling occupies 19.78 percent of the lot area. A principal building coverage of 26.67 percent was proposed, where the maximum permitted is 25 percent of the lot area.

The Board had numerous questions for Mr. Held and Mr. Mullins regarding the potential of reducing the extent of the variances requested. Chair Harrison called for public questions and comments. Pauline Plekhanov and Marguerite Plekhanov, 424 Grove Street voiced their concerns over the variances requested, particularly the rear yard setback, and stated that the additions should be reduced in size. The Board questioned Mss. Plekhanov.

The Board discussed the application. The Board concluded that the variance requested for the easterly side yard setback should not be granted and that the addition should be revised to conform to the 10-foot easterly side yard setback requirement. As a result of the Board's requirement that the width of the addition be reduced to comply with the 10-foot easterly side yard setback, the width of the addition was reduced to 33.9 feet, or 67.8 percent of lot frontage width, for which a variance was approved. The Board determined that the rear setbacks described above should be increased by 1 foot in order to reduce the extent of the encroachment. As a result of the increase in the easterly side yard and rear setback required by the Board, the principal building coverage was reduced from 26.67 percent to 26.39 percent, for which a variance was granted. On motion by Mr. Fleischer, seconded by Mr. Susswein the application was approved, Mr. Rubenstein voting in the negative, subject to the following conditions:

1. The easterly side yard setback of the addition shall not be less than 10 feet.
2. The rear setbacks of the breakfast area and the kitchen shall be increased by 1 foot, to be no less than 28.56 feet and 29.56 feet, respectively.

The Board took a 10 minute recess at 9:25 pm.

Chair Harrison called the application of **New Cingular Wireless PCS, LLC, 641 Bloomfield Avenue**. Renu Shevade, Esq. appeared as attorney and described the application. Greg Johnson, PE, was sworn and stated his qualifications as a Professional Engineer. He described the plans to install twelve antennas, eight equipment cabinets and one GPS antenna on the roof of the existing building. Four panel antennas are proposed in each of three sectors designated as A, B and C. Sector A is located at the northerly wall which is at the rear portion of the building; Section B is located on the easterly façade and Sector C is on the westerly façade. The antennas in Sector A will be secured to an existing screen wall which is mounted to the building parapet at the rear of the building at a height of 81 feet above ground level. The antennas in Sectors B and C would be installed near the edge of the roof on mounts, behind the parapet of the easterly and westerly sidewalls, extending above the parapet by six feet at a height of 81 feet above ground level. The GPS antenna will be attached to the southerly side of the screen wall measuring 13.6 inches in height and 2.6 inches in diameter. Seven equipment cabinets and one auxiliary cabinet are proposed on a steel framed platform to be located on the northerly side of the roof. The equipment cabinets measure up to seven feet in height, six of the cabinets are 2.5 feet wide and one cabinet is 35.4 inches wide. The cabinets are screened on three sides by a seven foot high screen wall. The Board questioned Mr. Johnson. No questions were offered from the public.

Hansi Mehta, PE, was sworn and stated her qualifications in Radiofrequency Engineering. She described the proposed installation, the existing coverage, proposed coverage, and other more specific information relating to the antennas and the network. She stated that the proposed installation also provides capacity offload from existing on-air sites which would help the effectiveness of their network.

Marked into evidence were:

- A-1 Existing Coverage Map
- A-2 Cumulative Coverage Map
- A-3 Cumulative Coverage Map depicting a larger geographic area
- A-4 Graph depicting blocked call percentages
- A-5 Graph depicting blocked call percentages

The Board questioned the witness extensively on her testimony, the Exhibits, and the proposed antennas. Ms. Shevade requested that the application be continued at the next meeting so that they could look into the Board's concerns and granted the Board an extension of time. Chair Harrison announced that the application will be continued at the August 20, 2008 regular meeting and that no further notice would be given.

Chair Harrison called the application of **Cadbury Properties, LLC, 33 Plymouth Street**. David Owen, Esq. appeared as attorney and described the application. Paul Sionas, Architect, was sworn and the described the plan.

Marked into evidence were:

A-1	First Floor Plan with color added
A-2	Four (4) Photographs of the existing interior
A-3a &b	Two (2) Photographs of the existing exterior
A-4	Plans by Sionas Architecture, 8 sheets, with color added
A-5	Archival Photograph
A-6	Rendering of the building
A-7	Rendering of the building
A-8	Rendering of the building
A-9	Landscaping Plan with color added
A-10	Lighting Plan
A-11	Archival Photograph
A-12	Detail sheet for proposed masonry piers

The property contains a large building, which is now vacant, and several parking lots. The building includes a southerly section that was originally a single-family dwelling constructed in or about 1877, however, over time that section has been expanded and extended to the north and west so that now most of the building consists of the additions. The interior square footage of approximately 19,234 square feet consists of classrooms, offices, assembly space, and related areas. It is deteriorated and needs rehabilitation. The building exterior and surface parking lots also require rehabilitation. The applicant proposes to retain the existing building, restore its interior and exterior, and refit it for use as business, professional, and medical offices in a project to be named "Academy Square". The plans provide for a new lobby, elevator, and hallway/stairway addition to the west side of the building and a new lobby addition to the east side of the building. They consist of approximately 1,215 square feet. They are intended to provide barrier-free accommodation and improved circulation in the building. The plans also provide for basement terraces to be excavated on the west side of the building. They are intended to provide direct ingress and egress and to increase light to the basement level. The plans provide that the existing classrooms, offices, and assembly space will be made into a variety of unique offices. The building's interior square footage will increase from approximately 19,234 square feet to approximately 20,449 square feet, an increase of 1,215 square feet attributable to the barrier-free accommodation and improved circulation.

The plans provide the current inventory of 92 surface parking spaces distributed in parking lots on the easterly portion of the property and the northwesterly portion of the property will be reconfigured, resurfaced, and reduced to 90 parking spaces. The plans eliminate the existing "stacked" or "valet" parking spaces. They extend the existing parking spaces in the Trinity Place front yard further to the south. The landscape plan eliminates certain trees and other vegetation, relocates three holly trees, and introduces substantial new plantings in the form of trees, shrubs, and flowers. The lighting plan provides bollard-style light fixtures to illuminate the parking lots.

The Board questioned Mr. Sionas. The highest point of the lobby containing the elevator and the elevator enclosure could be redesigned so as not to exceed the height

of the existing roof ridgeline of 43 feet. The plans could also be revised to eliminate any exterior stairs leading down to the basement terraces. The masonry piers could be limited to one pier on each side of the three driveways servicing the property and one pier on each side of the building entrance facing Plymouth Street. Chair Harrison called for questions from the public. Joan Senerchia, 14 The Crescent inquired about proposed landscaping adjoining her property. Bess Michaels, 11 Wilde Place, inquired about the hours of operation and security issues. Beth MacFarlane, 31 Trinity Place, inquired about the proposed basement terraces, lighting, and security.

Chair Harrison stated that the application would be continued at the next meeting scheduled for August 20, 2008 and that no further notice would be given. Mr. Owen granted the Board an extension of time. On motion by Mr. Fleischer, seconded by Mr. Whipple the meeting was adjourned.