

MINUTES OF THE BOARD OF ADJUSTMENT
July 18, 2007

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

ABSENT: Ms. Cockey, Vice Chair Fleischer, and Mr. Haizel

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 Ms. English, seconded by Ms. Holloway the **Minutes of the November 30, 2006** special meeting were adopted as modified, Mr. Susswein abstaining.

On motion by Mr. Susswein, seconded by Mr. Rubenstein, the following Resolution memorializing the approval of the application of **Edmund Auw, 53 Club Road** was adopted, Ms. English abstaining:

WHEREAS, **Edmund Auw**, owner of property at **53 Club Road**, did make application to the Board of Adjustment of the Township of Montclair to substantially demolish the existing dwelling and construct a single-family dwelling which exceeds the maximum permitted 2½ stories and does not meet the required front yard setback on property designated as Lot 39 in Block 3706 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant sought variances as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70c to permit a front yard setback less than required pursuant to **Montclair Code Section 347-45B(1)**; and

2. A variance pursuant to N.J.S.A. 40:55D-70c to permit 3½ stories, whereas a maximum of 2½ stories is permitted pursuant to **Montclair Code Section 347-45A(2)**; and

WHEREAS, the applicant submitted a property survey prepared by Shepard and Shepard, dated October 8, 1985, and architectural drawings, on 1 sheet, prepared by Gerald J. Novak, AIA, revised to June 3, 2007; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on June 20, 2007 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; 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 and contained a single-family dwelling with an attached garage that has been substantially demolished. The subject property is located adjacent to Yantacaw Brook Park, which is on the corner to the east, and measures 98.74 feet along the curved frontage on Club Road and contains 12,500 square feet in lot area.

2. The applicant was last before the Board on August 2, 2006, when an application to construct several additions onto the single-family dwelling was approved. That approved plan depicted a great deal of demolition, however, the plan also depicted that a significant amount of the existing first floor exterior framing would remain.

3. On or around May 31, 2007, the applicant was advised that the extent of demolition of the dwelling that had occurred exceeded the extent of what the approved plans depicted, and that a new variance application to reconsider the approved variances would be required in order to continue the work on the property.

4. The present application calls for the first floor framing to be completely demolished. The footprint of the dwelling would be enlarged by additions to the front, rear, and easterly side of the dwelling. A complete second floor addition is proposed over the enlarged footprint.

5. The average front yard setback of the 2 nearest dwellings to the west of the subject property is 32.46 feet. Variances are requested in that a front yard setback of 32.46 feet is required, and a front yard setback of 26 feet is proposed for the front entrance foyer addition, and a front yard setback of 30 feet is proposed for the 2-story bay addition on the front wall of the dwelling.

6. The Board determined that only small portions of these additions encroach into the required front yard and that the impact of these encroachments is minimized by curvature of street and the position of the dwelling on the lot. The Board also determined that the additional demolition that had occurred did not affect the applicant's ability to conform to this setback requirement and that the variance remained justified.

7. The Board also determined that the variance requested for exceeding 2½ stories remained acceptable since the topography of the lot is irregular and causes certain sections of the basement level to be more exposed where the grade level is naturally lower. These topographical conditions were not modified as a result of the additional demolition and the variance remained justified.

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

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant did prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variances for front yard setback and number of stories 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 Edmund Auw is approved, subject to the following conditions:

1. The height of the dwelling shall comply with the maximum principal structure height of 35 feet, measured as required by the ordinance.

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.

Mr. Sullivan described the correspondence received from David Owen, Esq., regarding the conditions of approval contained in the Resolution memorializing the approval of the application of **Edward & Kathleen Rosen, 41 South Mountain Avenue**. The Board stated that should circumstances change in the future, an applicant could apply to the Board to amend the conditions of the approved application, which would be subject to the proofs before the Board and the statutory criteria regarding the granting of variances. On motion by Mr. Susswein, seconded by Ms. Holloway, the following Resolution was adopted, Ms. English abstaining:

WHEREAS, Edward and Kathleen Rosen as owners did make application to the Board of Adjustment of the Township of Montclair ("Board") to construct a detached two-story structure in the rear yard of the subject property containing garage parking for three cars on the first floor and a dwelling unit on the second floor, while maintaining the existing single-family dwelling on the subject property, designated on the Township Tax Maps as Lot 28 in Block 1406 and located in the R-O(a) One-Family Zone; and

WHEREAS, the applicants requested relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(1) to allow two principal buildings on one lot, which is not permitted by Montclair Code Section 347-20 (providing that "for one- and two-family dwellings, there shall be no more than one principal building per lot..."); and

2. A variance pursuant to N.J.S.A. 40:55D-70c to allow less than the prescribed minimum rear yard setback for the new building, contrary to Montclair Code Section 347-39C (providing that the minimum rear yard setback shall be "30 feet or 30 % of the depth of the lot, whichever is greater");

WHEREAS, the applicants submitted site and architectural plans prepared by Sionas Architecture, P.C. revised through February 28, 2007 (consisting of sheets SP1 and A1) and a site section also prepared by Sionas Architecture, P.C. and dated June 5, 2007 (consisting of sheet A-1); and

WHEREAS, the matter came on to be heard at a public hearing of the Board held on June 20, 2007, at which time it was established that notice was properly published and that property owners within 200 feet of the subject property had been properly served with notice; and

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

1. The subject property is a large property consisting of 62,824 square feet and has lot frontage of 268 feet and lot depth of 278 feet;
2. The property slopes downward from South Mountain Avenue toward St. Luke's Place at an average downward slope of 8%;
3. Currently the property contains a 2 ½ story one-family dwelling with in-ground pool and substantial landscaping but without any garage;
4. The one-family dwelling was constructed in or about 1887, has been recognized by the New Jersey Office of Cultural and Environmental Services as having substantial historic and architectural merit, and has been identified in the Montclair Township Master Plan Historic Preservation element as a significant individual property;
5. Formerly the property contained a carriage house; based upon atlases, building department records, newspaper publication, and physical evidence, the carriage house appeared on the Essex County Atlas of 1906 and was located in the north corner of the rear yard proximate to the side and rear property lines; it was 30 feet by 40 feet and 2 ½ stories high; it contained a 2-car garage and original horse stalls and a 5-room apartment on the second floor;
6. The carriage house was destroyed by a fire in January 1959; the remnants of the carriage house foundation remain in the rear yard;
7. The applicants propose to construct a new structure that will take the place of the carriage house that burned down in 1959; the proposed new structure is a 2-story building with approximately the same square footage as the former carriage house; there is garage parking for three cars on the first floor, an apartment on the second floor, and workshop space and storage in the basement;
8. The new building is also located in the rear yard, but it has been moved to the south rear yard closer to the existing main home and with greater setbacks from the side and rear property lines than the original carriage house; the location and design re-

create the driveway circle shown on the Atlas of 1906, and the existing mature Japanese Maple is to be retained in the center of the circle; the design avoids the driveway extension that formerly traversed across the rear lawn to the former carriage house; the new building reflects the outstanding architecture of the main home;

9. Whereas the new building does not meet the definition of “carriage house” as defined in the zoning ordinance, the new building does reflect the look and function of a carriage house;

10. With respect to the section d variance to allow two principal buildings on one lot, there are special reasons in favor of such variance: The applicants’ proposal promotes zoning purpose 2a because the property is particularly suited for the new building insofar as it is a substantial estate property with recognized historic merit and insofar as it contained a carriage house for more than 50 years; the proposal also promotes zoning purpose 2a because it promotes the appropriate use of property by solidifying the estate and historic character of the property and by returning a traditional component to the property; the proposal also promotes zoning purpose 2e because it promotes appropriate residential density, zoning purpose 2i because it promotes a desirable visual environment, and zoning purpose 2j because it promotes conservation of an historic site.

11. With respect to the section c variance to allow less than the prescribed minimum rear yard setback, there are also sufficient grounds in favor of this variance: The required rear yard setback is 30 feet or 30% of lot depth, whichever is greater; here, because of the extreme lot depth of 278 feet, the required rear yard setback is 83.67 feet, and the proposed rear yard setback is 73.50 feet; under the subsection c(1) standard, the lawfully existing structures on the property, including the main home and stone wall behind the main home, present peculiar and exceptional practical difficulties because it is not feasible to move the carriage house from the rear property line and maintain a comfortable spatial separation from the main home and at the same time recreate the historic driveway circle; also under the subsection c(1) standard, the extreme lot depth of 278 feet presents peculiar and exceptional practical difficulties insofar as a literal application of the 30% requirement necessitates an unusual and exceptional rear yard setback of 83.67 feet; alternatively, under the subsection c(2) standard, the rear yard setback variance is in furtherance of the applicants’ overall proposal and promotes zoning purposes 2a, e, i, and j set forth above; it also promotes zoning purpose 2c because it provides more than adequate light, air, and open space to adjacent properties; in the case of subsection c(2), given the substantial 73.50 feet rear yard setback, the benefits of the variance substantially outweigh any detriment;

12. With respect to both variances, there is no substantial detriment to the public good or substantial impairment of the zone plan or zoning ordinance: The property is a substantial estate property and is large enough to be subdivided into two conforming lots; traditionally, the property contained a carriage house; the proposal to recreate that which was destroyed by fire places the new building closer to the main home with improved and substantial side yard and rear yard setbacks; if the new building were already existing as a carriage house, it would satisfy all the conditions of

section 347-9 for re-establishment of a carriage house as a conditional use; the combined building coverage of both the main home and the new building is approximately 7.5% and well under the prescribed maximum building coverage of 20%; the architectural design of the new building reflects the recognized historic and architectural merit of the main home; the project promotes the Master Plan policy of preserving historic estates;

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 applicants proved pursuant to N.J.S.A. 70:55D-70d(1) 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 upon the aforementioned findings, concluded that the applicants did prove 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 zoning ordinance pursuant to N.J.S.A. 40:55D-70c(1);

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 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 Edward and Kathleen Rosen is hereby approved subject to the following conditions:

1. The applicants shall install additional evergreen trees along the rear property line between the storm sewer line to the south and the south/southwest corner of the existing apartment building on St. Lukes Place (Block 1406, Lot 7) so as to increase the rear yard buffer on the property;

2. The applicants shall prepare a drainage plan for the increased impermeable square footage resulting from the driveway and new building for the approval of the Board Engineer;

3. The height of the new building shall not exceed 25 feet; and

4. There shall be no future subdivision of the property.

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 **Nancy Mercurio, 360 Upper Mountain Avenue** was adopted, Ms. English abstaining:

WHEREAS, Nancy Mercurio, owner of property at **360 Upper 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 rear yard setback less than required pursuant to **Montclair Code Section 347-45D** in connection with the construction of an addition on property designated as Lot 7 in Block 705 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a property survey prepared by Louis Puopolo III, dated August, 17, 2004, and elevation drawings and floor plans prepared by John Thomas Collins, Architect, dated March 2007; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on June 20, 2007 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 a corner lot, located at the intersection of Upper Mountain Avenue and Bradford Avenue, located in the R-1 One-Family Zone, and contains a 1-story single-family dwelling with an attached two-car garage.

2. On August 20, 2003 the subject property, under a different owner, received Board of Adjustment approval for a front yard setback variance from Bradford Avenue for the construction of a one-story addition at the northwesterly corner of the dwelling. A conforming deck was also part of that plan, and was constructed but the bathroom addition was never built.

3. The applicant proposes to demolish an existing single-story section at the rear of the dwelling and construct a slightly larger one-story addition in the same location. The required rear yard setback for the subject property is 51 feet, which is equal to 30 percent of the lot depth. Due to the position of the existing dwelling on the lot, a significant portion of the dwelling does not conform to the rear yard setback requirement.

4. The existing section of the dwelling that is proposed to be removed is set back 28 feet from the rear property line. The proposed addition would project 3 additional feet further into the rear yard and a rear yard setback of 25 feet is proposed,

which requires a variance. The proposed addition would be aligned with the existing deck at the rear of dwelling that also has a rear setback of 25 feet.

5. The proposed addition measures 14' deep by 10'-4" wide and will be used as a sitting room. The addition meets all other height and setback requirements and is consistent with the character of the neighborhood and will not adversely impact the public good.

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

1. The prior variance approval for a front yard setback from Bradford Avenue for an addition at the northwesterly corner of the dwelling has expired, and should that addition be pursued in the future, a new application the Board is required.

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

On motion by Mr. Susswein, seconded by Mr. Rubenstein, the following Resolution memorializing the approval of the application of **Susan Schulz, 40 Marion Road** was adopted, as modified, Ms. English abstaining:

WHEREAS, **Susan Schulz**, owner of property at **40 Marion Road**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40: 55D-70c to install a central air conditioning unit between the dwelling and the street, which is not permitted pursuant to **Montclair Code Section 347-46C** for property designated as Lot 34 in Block 1805 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a property survey prepared by JMH Associates, dated April 6, 1996 which indicates the location of the proposed air-

conditioning unit as well as an alternative location, and a packet that contains a written report prepared by the applicant, photographs of the property, and a specification sheets for the proposed air-conditioning unit; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on June 20, 2007 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 a corner lot at the intersection of Marion Road and Valley Road located in the R-1 One-Family Zone. The lot frontage along Marion Road measures 50 feet in width and along Valley Road 158.49 feet in width. The total lot area is approximately 11,660 square feet. The subject property contains a 2½-story single-family dwelling with a detached garage in the rear yard.

2. The applicant proposes to locate a central air conditioning unit, which is an accessory structure, between her dwelling and Valley Road, and a variance is requested. The applicant proposed two options on her plan, depicted as “first choice” and “second choice”. The proposed unit measures approximately 41” in height by 36.5” in width and 40” in depth.

3. The “first choice” depicted on the plan has the proposed unit located near the southwesterly corner of the dwelling in a recessed area of the westerly side of the dwelling that faces Valley Road. The “second choice” depicted on the plan is located 8 feet from the southwesterly corner of the dwelling between the fence and the driveway on the property.

4. The applicant submitted detailed information along with photographs that demonstrated that the location described as the “first choice” was the best location on the property to locate the proposed central air conditioning unit. At this location on the property, the proposed unit would be screened by the existing wood fence, the large existing yew adjacent to the westerly side of the dwelling, as well as the existing privet hedge that exists along Valley Road.

5. The Board determined that the variance is justified since the proposed location would be less visible to the public than the conforming locations along the rear of the dwelling, and the screening provided by locating the central air conditioning unit as proposed would mitigate any visual impact.

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

1. The proposed central air conditioning unit shall be located on the westerly side of the dwelling, near the southwesterly corner of the dwelling, centered on the bay window on that wall that faces Valley Road behind the large existing yew.

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

Chair Harrison called the application of **Steven and Mary Lee Wrede, 24 Greenview Way**. Calvin Trevenen, Esq., appeared as attorney and described the application.

Marked into evidence were:

- A-1 Copy of Montclair Code Section 347-34B
- A-2 Copy of Montclair Code Section 347-45C, D, and E

Mr. Trevenen called Steven Wrede, owner, who was sworn. Mr. Wrede described the proposed addition to his dwelling. He stated that the existing attached garage is 18 feet wide and does not function as a 2-car garage. The Board questioned the applicant. Chair Harrison called for questions from the public. None were offered. Mr. Trevenen called Joseph Bruno, Architect, who was sworn and stated his qualifications.

Marked into evidence were:

- A-3 Sheet 1 of the architectural plans, dated January 8, 2007, with color added, on a board
- A-4 Sheet 2 of the architectural plans, dated January 8, 2007, with color added, on a board

Mr. Bruno described the plans and the property. The subject property is an interior lot located in the R-1 One-Family Zone, measuring 75 feet in frontage width, and 10,794 square feet in lot area, and contains a 2½ story single-family dwelling with an attached garage on the northerly side of the dwelling that is recessed approximately 24

feet from the front wall of the dwelling. The applicants propose to construct an addition to the northerly side of the dwelling that would widen the dwelling to the north by approximately 3 feet, extend the recessed portion of the dwelling approximately 17 feet towards the front wall of the dwelling, and add a second floor over most of the added/remodeled area at the northerly portion of the dwelling.

Mr. Whipple arrived. The Board questioned Mr. Bruno. Chair Harrison called for questions from the public. None were offered. Mr. Trevenen called Roger DeNiscia, Professional Planner, who was sworn and stated his qualifications.

Marked into evidence were:

- A-5 Photoboard
- A-6 Tax record card and photo of 4 Greenview Way
- A-7 Tax record card and photo of 8 Greenview Way
- A-8 Tax record card and photo of 10 Greenview Way
- A-9 Tax record card and photo of 12 Greenview Way
- A-10 Tax record card and photo of 14 Greenview Way
- A-11 Tax record card and photo of 16 Greenview Way
- A-12 Tax record card and photo of 18 Greenview Way
- A-13 Tax record card and photo of 20 Greenview Way
- A-14 Tax record card and photo of 22 Greenview Way
- A-15 Tax record card and photo of 28 Greenview Way
- A-16 Tax record card and photo of 30 Greenview Way
- A-17 Tax record card and photo of 34 Greenview Way
- A-18 Tax record card and photo of 36 Greenview Way

Mr. DeNiscia described the plans and the variances requested. He stated that the average lot width of the properties in the neighborhood is 93 feet and that the average width of dwellings in the neighborhood is 69% of the lot width. The maximum permitted principal building width for the subject property is 48.75 feet, which equals 65 percent of the lot frontage width. The existing dwelling is presently nonconforming in terms of width measuring approximately 55 feet which equals 73.33 percent of the lot width. The proposed addition increases the width of the dwelling to 58.34 feet which equals 77.79 percent of the lot width. The proposed addition meets the 6-foot minimum side yard setback on the northerly side. The New Jersey Residential Site Improvement Standards requires 2 parking spaces for the dwelling. A one-car attached garage is proposed as part of the addition/remodeling at the northerly side of the dwelling. One of the two required parking spaces, which have dimensions of 9 feet by 18 feet pursuant to New Jersey Residential Site Improvement Standards, is located on the driveway in front of the garage, and would project into the front yard by 11 feet since the proposed garage is recessed 7 feet from the front wall of the dwelling. This parking space is partially located between the dwelling and Greenview Way and a variance is requested. He described the reasons why the variances should be granted.

The Board questioned the Mr. DeNiscia. Chair Harrison called for questions from the public. None were offered. Mr. Trevenen questioned Mr. DeNiscia again.

Marked into evidence were:

A-19 Tax record card and photo of 23 The Fairway

A-20 Tax record card and photo of 25 The Fairway

Chair Harrison called for public comment.

Stratton Heath, 27 Greenview Way, was sworn and stated his support for the application. Mr. Trevenen questioned Mr. Heath.

Gregory Lotz, 23 Greenview Way, was sworn and stated his support for the application. Mr. Trevenen questioned Mr. Lotz.

Mr. Trevenen summarized. The Board discussed the application. On motion by Ms. English, seconded by Ms. Holloway, the variance requested for principal structure width was approved, and the variance requested for front yard parking was denied, with the approved variance being subject to the condition below, and Mr. Rubenstein voting against the motion and Mr. Whipple abstaining:

1. The plan shall be revised to provide a minimum of 2 conforming parking spaces and the revised plan shall conform to all other zoning requirements.

Chair Harrison called the continuation of the application of **Valley National Bank, 539 Valley Road**. Mr. Whipple was recused from the application and there were 5 eligible Board members. Stuart Yusem, Esq. appeared as attorney for the applicant and called Michael Gabriel, Vice President of Valley National Bank, who was sworn. He provided details on the intended use of the property as a bank branch. The Board questioned Mr. Gabriel. Chair Harrison called for questions from the public.

Mitchell Chalek, 156 Sullivan Street, New York City, asked if the existing on-site parking would be sufficient. He also asked numerous other questions.

Emma Justice, 8 Bruce Road, asked how far the subject property is from the existing branch in Verona, and how the proposed branch would compare.

Martin Meyers, 93 Cooper Avenue, asked if the existing on-site parking would be sufficient.

Mr. Yusem questioned Mr. Chalek. Mr. Chalek stated that he is a commercial tenant in the second floor of the subject property. Mr. Yusem recalled Michael Kauker, Professional Planner, who was still under oath. He stated that a total of 4 banks exist in this Neighborhood Commercial Zone, including the existing drive-through facility adjoining the subject property. He stated that this does not represent a large number of banks in the N-C Zone. He also estimated that there are 13 total banks in Montclair and described the number of banks in nearby towns.

The Board questioned Mr. Kauker. It was made evident that several more banks exist in this N-C Zone than what he observed, as well as substantially more total banks in Montclair. Chair Harrison called for questions from the public.

Emma Justice, 8 Bruce Road, inquired about the distances between the banks described in the testimony.

Chair Harrison called for public comment.

Mitchell Chalek, 156 Sullivan Street, New York City, was sworn and stated his opposition to the application.

Dr. Mitchell Sroka, 5 Orient Way, was sworn and stated that he also has an office in the building and stated his opposition to the application.

Emma Justice, 8 Bruce Road, was sworn and stated her opposition to the application.

Joseph Palzola, 192 Claremont Avenue, was sworn and stated his opposition to the application.

Maria Margate, 56 Davis Avenue, Randolph, NJ was sworn and stated her opposition to the application.

Mr. Yusem summarized the application. The Board discussed the application. On motion by Ms. English, seconded by Mr. Rubenstein, the application was denied, with Mr. Susswein voting against the motion.

Chair Harrison called the application of **Larry Hays, 24 Warfield Street**. Mr. Hays was sworn and described the application. He is proposing a deck at the southeasterly corner of the dwelling that would replace a previously existing smaller deck. He described a proposed change to the plan to modify the size of proposed deck by having it extend approximately 2 additional feet towards the side property line from what was depicted on the plan. The required rear yard setback is 28.33 feet and the proposed rear yard setback is 27 feet 4 inches. Based on the enlarged deck footprint, indicated to be a maximum of 700 square feet, the proposed principal building coverage would be a maximum of 30 percent of the lot area, which exceeds the maximum permitted principal building coverage of 25 percent. He indicated that the existing attached one-car garage on the ground level is unusable for parking for a number of reasons including its narrow width. The proposed deck is at the first floor level, which provides enough clearance for 2 vehicles to park underneath the deck and have it serve as a carport providing covered parking.

Marked into evidence was:

A-1 Packet of photos and plans

The Board questioned the applicant. Chair Harrison called for questions and comments from the public. None were offered. The Board discussed the application and concluded that the rear setback variance is a minor deviation that is justified due to the position of the dwelling on the corner lot. The principal building coverage variance is justified due to the fact that the dimensions proposed for the deck allow it to provide covered parking for 2 vehicles on the property, which does not presently exist. On motion by Mr. Whipple, seconded by Mr. Susswein, the application was approved subject to the following condition:

1. The approval is limited to an outdoor deck which shall not exceed 700 square feet in area. The principal building coverage shall not exceed 30 percent, and the rear yard setback shall not be less than 27 feet 4 inches.

Chair Harrison called the variance application of **Richard F. McMahon, 714 Valley Road**. Mr. McMahon was sworn and described the application. He proposes to construct a low-lying wood deck onto the rear of his dwelling that would be 16 inches above the ground and has a step along its perimeter. The deck surface would be aligned with the rear corner of the dwelling and the step is aligned main wall of the dwelling that faces Glenwood Place. The front setback requirement for the subject property from Glenwood Place is approximately 30 feet, and is based on front setback of the principal structure on the adjoining lot to the west, which is a one-story commercial structure. The existing dwelling has a non-conforming front yard setback of approximately 8.36 feet as measured from the northerly rear corner of the dwelling to Glenwood Place.

A-1 through A-8 Photos of the subject property

The Board questioned the applicant. Chair Harrison called for questions and comments from the public. None were offered. The Board discussed the application and determined that the requested variance could be granted since the proposed construction is aligned with the dwelling and does not encroach closer to Glenwood Place than the existing dwelling. The proposed deck is also very low to the ground, which reduces its visual impact and is screened by an existing hedge along the Glenwood Place property line. On motion by Mr. Whipple, seconded by Mr. Susswein, the application was approved.

Chair Harrison called the variance application of **Jaime Mercado & Andrea Everett, 120 Cooper Avenue**. George Held, Architect, was sworn. One of the applicants, Andrea Everett, was present. Mr. Held described the plans. The applicants propose to construct a new detached garage on the same footprint as the existing garage, which is in a state of disrepair and will be demolished. The footprint of the existing garage measures approximately 20'4" in width by 20 feet in length. The existing garage has a nonconforming easterly side yard setback of approximately 2.4 feet at the front corner and 2.6 feet at the rear corner. The same nonconforming easterly side yard setback is proposed and a conforming height of 14 feet 9 inches is proposed.

The Board questioned the applicant. Mr. Held stated that the roof leaders from the garage would be connected to seepage pits in the rear yard that are being installed as part of an addition to the dwelling. Chair Harrison called for questions and comments from the public. None were offered. The Board discussed the application and determined that the proposed garage can be approved since its location and size is the same as the location and size of the existing garage on subject property and its location is similar to that of many detached garages in the neighborhood. On motion by Mr. Whipple, seconded by Mr. Susswein, the application was approved.

Chair Harrison called the variance application of **Alex Salcedo, 90 Bellevue Avenue**. Mr. Salcedo was sworn and described the application. The detached garage in the rear yard was damaged during a storm in 2006. He proposes to demolish the existing two-car detached garage and replace it with a three-car garage that has a second floor storage area at the rear of the lot. The existing garage measures approximately 18 feet wide by 18 feet long and has a nonconforming easterly side yard setback of 5 feet and a rear setback of approximately 32 feet. The footprint of the proposed garage measures 36 feet 8 inches in width by 24 feet in length and exterior stairs to the second floor storage space are proposed on the westerly side of the structure. A minimum conforming setback of 6 feet is proposed for the easterly side yard setback and rear yard setback. The first floor of the proposed garage, which is 9 feet in height, will be used as garage parking for three cars. The second floor, which is 7 feet 6 inches in height, will be utilized for storage space. The total height of the proposed garage measures 19 feet 10 inches to the ridge of the roof, which exceed that maximum permitted height of 15 feet for accessory structures. The applicant indicated that the proposed garage would provide aesthetic benefits to the neighborhood, while providing him with the type of storage space he desires. The Board questioned the applicant. Chair Harrison called for questions and comments from the public.

Martin Meyers, 93 Cooper Avenue, was sworn, and stated his opposition to the application.

The Board discussed the application and concluded that there is no justification for the variance, that the proposed height of the detached garage would have a negative impact on adjoining residential properties and that the requested variance could not be approved. On motion by Mr. Whipple, seconded by Mr. Susswein, the application was denied.

Chair Harrison called the variance application of **Renee Boicourt, 25 Duryea Road**. The applicant and Peter Wilcox, Architect, were sworn. Mr. Wilcox described the application. The applicant proposes to demolish the existing uncovered front entry stone stoop and steps and construct a roofed front porch that has a width of 23 feet 11 inches. The existing dwelling has a non-conforming front yard setback of approximately 48 feet as measured to the bay window on the front wall. The average front yard setback of the 4 nearest dwellings, 2 on either side of the subject property, is 49 feet 6 inches. The front setback of the proposed porch would be 43 feet and a variance is requested. The required front yard setback is skewed due to the substantially larger front yard setback

of the two properties to the north of the subject property. Additionally, the proposed front yard setback is slightly greater than that of the two properties to the south of the subject property, and the proposed roofed front porch fits in well with the existing streetscape in terms of front yard setback. The Board questioned the applicant. Chair Harrison called for questions and comments from the public. None were offered. The Board discussed the application. On motion by Mr. Whipple, seconded by Mr. Susswein the application was approved.

Chair Harrison called the variance application of **Claudia Pascale, 6 Argyle Road**. Mr. Whipple recused himself and left the meeting. The applicant and Mark Bess, Architect, were sworn. Mr. Bess described the application. On a resolution dated June 20, 2007 the applicant received variances for front yard setback and principal building width from the Zoning Board of Adjustment to construct several additions onto her dwelling. The Board denied, however, rear yard setback and maximum principal building coverage variances associated with a single-story addition at the rear of the property. Revised plans were prepared and submitted. The existing dwelling has a conforming rear yard setback of approximately 36 feet 8 inches. The rear yard setback requirement is 28.33 feet for the subject property and the proposed one-story addition has a rear yard setback of 25 feet. The previously denied proposal requested a set back of 20'-2" from the rear property line. A principal building coverage of 25.4 percent is proposed, where the maximum permitted is 25 percent of the lot area. The existing dwelling occupies 18.5 percent of the lot area. The previously denied proposal requested principal building lot coverage of 29.7 percent.

The Board questioned the applicant. Chair Harrison called for questions and comments from the public. None were offered. The Board discussed the application and concluded that the revised plans are acceptable since the variances requested are minimal exceptions to the zoning requirements, which are justified based on the small size of the lot and the placement of the dwelling on the property. Furthermore, the impact of the proposed addition on neighboring properties is minimal as it is in keeping with the nonconforming rear yard setback of the properties located immediately to the east of the subject property. On motion by Mr. Susswein, seconded by Ms. English, the application was approved.

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