

MINUTES OF THE BOARD OF ADJUSTMENT
August 20, 2008

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

ABSENT: Ms. Cockey, Mr. Whipple, 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 April 16, 2008** regular meeting were adopted. On motion by Mr. Fleischer, seconded by Mr. Susswein, the **Minutes of the May 21, 2008** regular meeting were adopted. Ms. Holloway abstaining.

On motion by Mr. Fleischer, seconded by Mr. Susswein, the following Resolution memorializing the approval of the application of **Mary and Kurt Switala, 43 Carolin Road** was adopted, Ms. English, Ms. Holloway abstaining:

WHEREAS, Mary and Kurt Switala, owners of property at **43 Carolin Road**, did make an application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow for a side yard setback less than required pursuant to **Montclair Code Section 347-46A(2)(a)** in connection with the construction of a detached garage on property designated as Lot 50 in Block 3504 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicants submitted a plot plan, floor plan, and elevations prepared by John Thomas Collins, dated May 2008; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on July 16, 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 located in the R-1 One Family Zone, measuring 60 feet in width and 8,607 square feet in area. 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.

2. 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.

3. A variance is requested from **Montclair Code Section 347-46A(2)(a)** 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.

4. 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.

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 application of Mary and Kurt Switala 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. Susswein, the following Resolution memorializing the approval of the application of **Mr. and Mrs. Stanley Mullins, 86 Wildwood Avenue** was adopted, Ms. English, Ms. Holloway, and Mr. Rubenstein abstaining:

WHEREAS, **Mr. and Mrs. Stanley Mullins**, owners of property at **86 Wildwood Ave**, did make application to the Board of Adjustment of the Township of Montclair to construct an addition onto the rear of their single-family dwelling on property designated as Lot 26 in Block 3504 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicants sought variances pursuant to N.J.S.A. 40:55D-70c as follows:

1. A variance from **Montclair Code Section 347-45C(1)** to allow an easterly side yard setback of less than the 10 feet; and
2. A variance from **Montclair Code Section 347-45C(4)b** to allow the width of the addition to exceed the maximum permitted width; and
3. A variance from **Montclair Code Section 347- 45D** to allow a rear yard setback less than required; and
4. A variance from **Montclair Code Section 347- 45E** to allow a greater principal building coverage than permitted; and

WHEREAS, the applicant submitted a property survey dated August 29, 1994, and a plot plan, floor plans, and elevations, prepared by George Held and Associates, revised April 14, 2008; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on July 16, 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; and

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

1. The subject property is an interior lot located in the R-1 One-Family Zone, 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 garage.
2. 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.
3. 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 Board concluded that this variance should not be granted and that the addition should be revised to conform to the 10-foot easterly side yard setback requirement.
4. The existing dwelling has a nonconforming width of 36.86 feet where a maximum of 32.5 feet, or 65 percent of the lot frontage width is permitted. 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.

5. 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 Board determined that the rear setbacks described above should be increased by 1 foot in order to reduce the extent of the encroachment in approving the this variance.

6. The existing dwelling occupies 19.78 percent of the lot area. A principal building coverage of 26.67 percent was originally proposed, where the maximum permitted is 25 percent of the lot area. 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.

WHEREAS, the Board, based on the foregoing findings regarding the variance requested for the 10-foot easterly side yard setback, concluded that the applicants did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and that the variance could not 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 regarding the variance requested for the 10-foot easterly side yard setback, concluded that the applicants did not 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); and

WHEREAS, the Board, based on the foregoing findings regarding the variances requested for principal structure width, rear yard setback, and principal building coverage, concluded that the applicants 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 regarding the variances requested for principal structure width, rear yard setback, and principal building coverage, 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 variance requested for an easterly side yard setback of less than 10 feet is denied and the variances requested for principal structure width, rear yard setback, and principal building coverage are approved, 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.

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 **Pinnacle Asset, LLC, 295 Bloomfield Avenue** was adjourned to the September 17, 2008 regular meeting of the Board, at the applicant's request. No further notice would be given. The Board was granted an extension of time on the application. The application of **New Cingular Wireless PCS, LLC, 641 Bloomfield Avenue** was adjourned to the September 17, 2008 regular meeting of the Board, at the applicant's request. No further notice would be given. The Board was granted an extension of time on the application.

Chair Harrison called the application of **Nancy Trehwella, 380 Grove Street**. Nancy Trehwella was sworn and described the application. A one-story addition is proposed at the southerly rear corner of the dwelling, behind an existing one-story section of the dwelling. The addition would align with the southerly side wall of the existing dwelling and a rear wall of the dwelling, "filling in" a corner of the dwelling. The addition is to enlarge a family room. The existing dwelling has a nonconforming southerly side yard setback of 4.61 feet at its closest point. The southerly wall of the addition will extend 10 feet further into the rear yard. The southerly 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 4.61 feet down to 4.5 feet, and a variance is requested. The proposed addition complies with all other zoning requirements. The Board questioned Ms. Trehwella. No questions and comments were offered from the public. The Board discussed the application. The Board determined that the requested variance could be approved. The proposed addition is aligned with the walls of the existing dwelling and would not have a negative impact on any nearby property. The slight decrease in the southerly side yard setback is very minor and is caused by the angled position of the dwelling to the property line. On motion by Mr. Rubenstein, seconded by Mr. Fleischer the application was approved.

Chair Harrison called the continuation of the application of **Cadbury Properties, LLC, 33 Plymouth Street**. David Owen, Esq. appeared as attorney for the applicant and recalled Paul Sionas, Architect, who was still under oath. A revised Landscape Plan has been submitted and he described the changes made to the site plan and landscaping in detail.

Marked into evidence was:

A-13 Revised sheet L-1, Landscape Plan, color added, dated August 18, 2008

The plans have been revised to eliminate any exterior stairs leading down to the basement terraces. The total number of central air conditioning units has been reduced to 4 for the entire site. The 4-foot aluminum fence has been revised to conform to the ordinance. The Board questioned Mr. Sionas. 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. No questions were offered from the public.

Mr. Owen called Michael Petry, P.E., who was sworn and stated his qualifications. He described the existing property and the proposed plan.

Marked into evidence were:

A-14 Property Survey with color added

A-15 Archival Photograph of parking lot

A-16 Layout Plan with color added, revised to July 8, 2008

A-17 Grading and Drainage Plan with color added, revised to June 20, 2008

The property is a corner lot consisting of 1.22 acres. It has three frontages on Plymouth Street, Trinity Place, and The Crescent. The property contains a large building, which is now vacant, and several parking lots. The existing parking lots currently have no drainage improvements. The plans provide that the current inventory of 92 surface parking spaces will be reduced to 90 parking spaces. The project as proposed by the applicant requires 90 on-site parking spaces under the zoning ordinance. The Layout Plan has been revised to reflect the latest comments of the Board Engineer. He described the stormwater detention pan and stated that the plan reduces the amount of stormwater runoff. The parking spaces with dimensions of 9 feet by 18 feet rather than 9 feet by 19 feet is justified because the dimensions of 9 feet by 18 feet are adequate under accepted engineering standards and are also in compliance with the state-wide residential site improvement standards.

The Board questioned Mr. Petry. The medical offices could be limited to suit the parking plan. The plan could be revised so that one of the two barrier-free parking spaces in the easterly parking lot is relocated next to the two barrier-free spaces in the northwesterly parking lot so that the easterly lot shall contain one barrier-free parking space and the northwesterly lot shall contain three barrier-free parking spaces. The easterly parking lot could be limited to building tenants only. The five most easterly

parking spaces in the northwesterly parking lot could be limited to building tenants only. The layout plan for the northwesterly parking lot could be revised to eliminate the fifth, sixth, seventh, and eighth parking spaces north of the Trinity Place driveway and lawn and/or additional plantings could be added to that area.

Marked into evidence was:

A-18 Off Street Parking Requirement Summary, May 19, 2008

Chair Harrison called for questions for questions from the public. Beth MacFarlane, 31 Trinity Place, inquired about the proposed driveway on Trinity Place.

Mr. Owen called Harold Maltz, P.E., who was sworn and stated his qualifications as a Professional Engineer with particular expertise in the area of transportation and traffic studies.

Marked into evidence was:

A-19 Traffic Report, dated June 30, 2008

Traffic counts were done for the AM and PM peak periods on 2 dates: Thursday, June 5, 2008 and Wednesday, June 18, 2008. He described the existing site, the proposed parking plan, the existing street/roadway conditions, existing traffic volumes, and traffic projections. He also described the on-street and off-street parking capacity, and the site circulation, and concluded that the proposed plan would generate minimal peak hour traffic, which would be distributed amongst the three access drives. The Board questioned Mr. Maltz. No questions were offered from the public. The Board took a short recess. Upon returning the Board had particular questions for the applicant concerning the floor plan and medical office use. Mr. Sionas stated that the amount of medical office floor space could be limited to no more than 3,090 square feet of floor area. Mr. Owen called Bob Silver, 145 Inwood Avenue, principle of Cadbury Properties, LLC, who was sworn. He described the applicant's thought process and intent to lease the limited amount of medical office floor space. The Board questioned Mr. Sionas and Mr. Silver. No questions were offered from the public.

Mr. Owen called Peter Steck, P.P., who was sworn and stated his qualifications. He described the existing property and the proposed plan.

Marked into evidence was:

A-20 Planner's Exhibit, dated July 16, 2008

The property is a corner lot consisting of 1.22 acres. It has three frontages on Plymouth Street, Trinity Place, and The Crescent. It is split-zoned, with the southerly portion extending to Plymouth Street in the R-1 Zone and the northerly portion extending to The Crescent in the R-4 Zone. The northerly portion of the property abuts

the OR-4 Three-Story Apartment and Office Building Zone. The property is approximately one block south of the Central Business District

He described the variances and exceptions requested: a variance to permit business, professional, and medical offices which are not permitted in the R-1 and R-4 Zones; a variance to permit the lobby addition containing the elevator and elevator enclosure to exceed by more than 10 percent the maximum permitted linear height in the R-1 Zone; a variance to permit the elevation at the southerly basement terrace to exceed the maximum permitted story height in the R-1 Zone; a variance to permit redesigned and expanded on-site parking spaces to be located in front yards between the building and the curbs of the streets on which the building fronts; a variance to permit masonry piers along the front property lines to exceed the maximum permitted height of 4 ½ feet; a variance to permit plaque signage on masonry piers along the front property lines; an exception to permit regular size parking spaces to have minimum dimensions of 9 feet by 18 feet; and an exception to permit parking lots to provide less than 5 percent landscaped areas within the pavement perimeter.

The property and building have been in commercial school use for many years. The Kimberly School occupied the property and building from 1906 to 1950. The Katherine Gibbs School occupied the property and building from 1950 to 2004. 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". With respect to the use variance to permit business, professional, and medical offices, there are various purposes of zoning and special reasons in support of the use variance, including that it promotes the appropriate use of land and the general welfare because the site is particularly suitable for the project, provides sufficient space at an appropriate location for commercial office use, promotes a desirable visual environment through creative development techniques, retains and conserves a property and building with historical and architectural value, and coordinates public and private initiatives shaping land development and the more efficient use of land. The property is particularly suitable for the proposed offices because it has been in continuous commercial school use for many years and because it is logical to renovate existing classrooms, offices, and assembly areas and to refit them for use as offices proximate to the Central Business District. The project creates a desirable visual environment by restoring the building's interior and exterior and by introducing substantial plantings and decorative fencing. The project conserves a notable building and property, combining private investment with the public interest in reviving and reusing valuable property;

The height variances are caused by the construction of the lobby containing the elevator and elevator enclosure and the excavation of the southerly basement terrace. The height of the proposed elevator enclosure is at its highest point 42 feet 10 inches, reduced from 45 feet, which exceeds the permitted linear height of 35 feet by more than 10 percent. The elevation at the proposed southerly basement terrace increases from three stories to four stories, which exceeds the permitted story height of 2 ½ stories. There are purposes of zoning and special reasons in support of the linear height variance, including the aforementioned special reasons and that the proposed elevator

is in furtherance of barrier-free access to the building and thus promotes public accommodation and safety. Furthermore, the proposed height of 42 feet 10 inches is less than the existing height of the existing roof ridgeline of 43 feet. In addition, the proposed lobby containing the elevator and the elevator enclosure are consistent with the purposes of the height limitation set forth in the zoning ordinance because, among other things, they permit adequate light, air, and open space and they provide a desirable visual environment. There are also purposes of zoning in favor of the story height variance, including the aforementioned goals of zoning and that the proposed terrace allows increased light and air to the basement level and thus provides for improved light, air, and open space.

There are purposes of zoning in favor of the parking location variance, necessitated by redesign of existing front yard parking and extension of existing front yard parking in the Trinity Place front yard, including the aforementioned goals of zoning and that the proposed front yard parking permits an adequate parking supply without burdening on-street parking spaces, thereby promoting the free flow of traffic and eliminating traffic congestion. At the same time, the corner lot with three frontages and three front yards, in combination with the lawfully existing building on the property, require that most of the requisite on-site parking must be provided in a front yard, thereby causing an exceptional situation uniquely affecting the property and peculiar and exceptional practical difficulties and exceptional and undue hardship.

The additional green area provided by the proposed removal of certain parking spaces necessitates a variance for four less parking spaces than required by the zoning ordinance. Such variance is justified under zoning purposes providing for adequate open space and for a desirable visual environment. This variance represents a benefit to the surrounding properties and represents a minor departure from the zoning ordinance. The change also eliminates the exception for providing less than 5 percent interior landscaping within the northwesterly parking lot. There are purposes of zoning in favor of the variance for the height of masonry piers, proposed to be 5 feet 8 $\frac{3}{4}$ inches rather than 4 $\frac{1}{2}$ feet, and the variance for plaque signage, which is an accessory signage not permitted in the zone, including the aforementioned goals of zoning and that the proposed masonry piers and plaque signage increase the residential appearance of the property and promote a desirable visual environment.

The variances do not cause substantial detriment to the public good or substantial impairment of the intent and purpose of the master plan or the zoning ordinance. They eliminate an intense and often unwelcome school use. They revitalize and substantially improve the building and grounds. They improve the neighborhood. They create jobs and services in the community. They provide barrier-free access to all levels of the building. They provide adequate on-site parking, and the vast majority of the proposed front yard parking is a longstanding condition of the property. They do not cause adverse traffic impacts, as testified to by the applicant's traffic engineer. They provide significant new plantings, attractive fencing, and minimal signage. They are consistent with the master plan and master plan reexamination policies. The 1987 Master Plan provides that the northerly portion of the property should be in office and residential use, reflecting the traditional and surrounding uses. The 2006 Master Plan

Reexamination Report endorses planning principles which support conservation of existing buildings, adequate parking capacity, accessible design, and environmentally sound buildings. While office use is ordinarily not appropriate in residential zones, the existing large commercial building and its interior design, the existing parking lots, and the specific characteristics of the property present a unique situation that makes the property especially appropriate for the proposed business, professional, and medical offices. In the case of the bulk variances founded upon purposes of zoning, the benefits thereof substantially outweigh any detriment.

The exception for providing parking spaces with dimensions of 9 feet by 18 feet rather than 9 feet by 19 feet is justified because the dimensions of 9 feet by 18 feet are adequate under accepted engineering standards and are also in compliance with the state-wide residential site improvement standards. The literal enforcement of the parking space dimension standard is impracticable or will exact undue hardship given the characteristics of the property, and the exception is reasonable and within the general purpose and intent of the site plan ordinance. The exception for providing less than 5 percent interior landscaping in the easterly parking lot is justified given that it is preferable to maintain all proposed parking spaces at that location and that there will be substantial perimeter landscaping at that location. The literal enforcement of the 5 percent interior landscaping standard is impracticable or will exact undue hardship given the characteristics of the property, and the exception is reasonable and within the general purpose and intent of the site plan ordinance.

The Board questioned Mr. Steck. Mr. Sionas answered questions related to the stairs depicted on the plans to the basement terraces and stated that the stairs would be removed. He stated that the terraces would be well lit and trespassing into the terraces would be further discouraged with thorned shrubbery. No questions or comments were offered from the public. Mr. Owen summarized the application.

The Board discussed the application. Based upon the Board's particular knowledge of local conditions, the application is not inconsistent with the character of the neighborhood and will not adversely impact the public good. The Board concluded that the applicant proved the requisite special reasons for granting the use variance and the linear height variance and proved by a preponderance of the evidence that the same 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. The Board concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and that the parking location 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. The Board concluded with respect to the story height variance, the parking location variance, the parking supply variance, the masonry pier variance, and the plaque signage variance 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. On motion by Ms. English,

seconded by Mr. Fleischer the application was approved, subject to the following conditions, Mr. Kenney voting in the negative:

1. The medical offices shall be limited to a maximum of 3,090 square feet, however, if the zoning ordinance is amended in the future to provide a less stringent on-site parking supply requirement for medical offices, then the medical office square footage may increase consistent with such amendment and the terms of this resolution;

2. The highest point of the lobby containing the elevator and the elevator enclosure shall not exceed the height of the existing roof ridgeline of 43 feet;

3. The plans shall be revised to eliminate any exterior stairs leading down to the basement terraces;

4. One of the two barrier-free parking spaces in the easterly parking lot shall be relocated next to the two barrier-free spaces in the northwesterly parking lot so that the easterly lot shall contain one barrier-free parking space and the northwesterly lot shall contain three barrier-free parking spaces;

5. The easterly parking lot shall be limited to building tenants only;

6. The five most easterly parking spaces in the northwesterly parking lot shall be limited to building tenants only;

7. The masonry piers shall 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;

8. The applicant shall be provided with the maintenance manual for the stormwater system and shall comply with the maintenance schedule;

9. The applicant shall comply with items 1, 3, and 5 of the Board Engineer's letter dated June 25, 2008 and shall comply with item 2 of the Board Engineer's letter date June 25, 2008 so long as the Township has historically required that a developer install new curb and if the Township Engineer recommends such new curb within 60 days of the date of this resolution;

10. Pursuant to the on-site parking supply variance granted herein, the layout plan for the northwesterly parking lot shall eliminate the fifth, sixth, seventh, and eighth parking spaces north of the Trinity Place driveway and shall substitute therefore lawn and/or additional plantings; and

11. The northwesterly parking lot shall in compliance with Montclair Code Section 281-9H include 5 percent interior landscaping which as testified to by the applicant's engineer shall consist of the proposed landscaping in the northwesterly parking lot and the four parking spaces and additional green area referred to in paragraph 12 above.

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