

**MINUTES OF THE BOARD OF ADJUSTMENT**  
**September 16, 2009**

PRESENT: Chair Harrison, Mr. Burr, Ms. Cockey, Mr. Kenney and Mr. Susswein; also, Mr. Sullivan, Esq. and Mr. Charreun, Assistant Secretary

ABSENT: Vice Chair Fleischer, Ms. English, Ms. Holloway, 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. Susswein, seconded by Mr. Kenney, the following Resolution memorializing the Board's decision on the application of **CRAFTCO, 14 North Willow Street and 173 Glenridge Avenue** was adopted as modified, Mr. Burr and Ms. Cockey abstaining:

WHEREAS, CRAFTCO, a corporation, as owner, by its attorney William J. Ewing, Esq. did make application to the Board of Adjustment of the Township of Montclair for reapproval of a minor subdivision on property designated as Lot 38 in Block 3204 on the Township Tax Map and located in the "center area" of the C-1 Central Business Zone; and

WHEREAS, the applicant submitted a minor subdivision plan prepared by Richlan, Lupo & Associates, Inc. dated July 30, 2007; and

WHEREAS, this matter came on to be heard at a special meeting of the Board of Adjustment held on September 2, 2009 at which time it was established that notice was properly published and that property owners within 200 feet of the subject property had been properly served with notice; and

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

1. The subject property is located at the northwest corner of Glenridge Avenue and North Willow Street and contains 4,434 square feet of area and is located within an historic district. The lot contains frontage of 40 feet on Glenridge Avenue and 111.95 feet on North Willow Street. A channelized brook crosses the northern end of the property.

2. The subject property is improved with two separate buildings. The two story building on proposed Lot 38.02 contains first floor vacant commercial space with a gross floor area of approximately 2,960 square feet. The aforementioned first floor space was used for many years as an antique business and prior to that for automotive parts sales. The second floor of the building is utilized for assembly by a Masonic lodge known as Eureka Lodge 52. The two story dwelling on proposed Lot 38.01 contains a three room one bedroom apartment on each floor.

3. By resolution adopted November 19, 2008, the Board approved the applicants' request for minor subdivision to subdivide the property into two lots so that each building may be accommodated on its own lot. The proposed subdivision line will run along the northerly edge of the building fronting on Glenridge Avenue. Proposed Lot 38.01 will contain 1,446 square feet and proposed Lot 38.02 will contain 2,988 square feet. A 3.59 foot wide easement is proposed between the buildings to provide access to both buildings. The Board also granted the following relief:

1. A variance pursuant to N.J.S.A. 40:55D-70d(5) to exceed the maximum density on proposed Lot 38.01 to permit a density of 60 units where a maximum of 55 units per acre are allowed pursuant to Montclair Code Section 347-83B(5).

2. A variance pursuant to N.J.S.A. 40:55D-70d(2) to permit expansion of the preexisting nonconforming use by virtue of the reduction in lot area on proposed Lot 38.02.

3. A variance pursuant to N.J.S.A. 40:55D-70c to allow lot area of 2,988 square feet on proposed Lot 38.02 where a minimum of 10,000 square feet is required pursuant to Montclair Code Section 347-83A(3).

4. Variances pursuant to N.J.S.A. 40:55D-70c to allow a rear yard setback of 3 feet on proposed Lot 38.01 and 0 feet on proposed Lot 38.02 where a minimum of 10 feet is required pursuant to Montclair Code Section 347-83B(4).

4. Pursuant to N.J.S.A. 40:55-47d, a minor subdivision shall expire 190 days from the date on which the resolution of municipal approval is adopted and the applicant failed to perfect the subdivision prior to May 28, 2009 giving rise to the within request for reapproval of the minor subdivision.

5. The Board determined the application complies with municipal ordinances other than the previously approved variances.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair, that the within application of CRAFTCO, for reapproval of a minor subdivision is hereby approved subject to the following condition:

1. Prior to the issuance of a building permit, the applicant shall pay any and all outstanding property taxes.

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. Kenney, the following Resolution memorializing the Board's decision on the application of **Doug and Melissa Legters, 18 Edgecliff Road** was adopted, Mr. Burr and Ms. Cockey abstaining:

**WHEREAS, Doug and Melissa Legters**, as owners, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA 40:55D-70c from **Montclair Code Section 347-45B(1)** to permit a front setback less than required for a proposed roofed front porch at the front of their single-family dwelling on property designated as Lot 15 in Block 701 on the Township Tax Map and located in the R-1 One-Family Zone; and

**WHEREAS**, the applicants submitted a plot plan, first floor plan, and elevations, prepared by Oasis Architecture dated June 15, 2009, and a property survey dated October 31, 2005; and

**WHEREAS**, this matter came on to be heard at a special meeting of the Board of Adjustment held on September 2, 2009 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 and contains a 2½-story single-family dwelling with an attached garage. The subject property measures 76 feet in frontage width and 17,674 square feet in lot area.

2. The applicants propose to demolish the existing unroofed front entry stoop and steps and construct a roofed front porch that would span 31.02 feet in width across the front wall of the 2½ story section of the dwelling.

3. The average front yard setback of the 4 nearest dwellings, 2 on either side of the subject property, is approximately 36.87 feet, which is the minimum permitted front yard setback for new construction on the subject property.

4. The existing dwelling has a conforming front yard setback of 41.56 feet as measured from the second story overhang at the southerly front corner of the dwelling. The proposed roofed porch would have a minimum front yard setback of 34.74 feet and a variance is requested.

5. The Board determined that the variance requested could be approved as submitted. The required setback is skewed due to the larger front setback of the dwelling on the adjoining lot to the south. Aside from that property, the proposed front setback is in keeping with or greater than that of nearby dwellings. Additionally, the varied topography of the area further reduces any negative impact to nearby properties.

**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 **Doug and Melissa Legters** 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. Susswein, seconded by Mr. Kenney, the following Resolution memorializing the Board's decision on the application of **Anne Caldas & Mark Wyville, 15 Macopin Avenue** was adopted as modified, Mr. Burr and Ms. Cockey abstaining:

**WHEREAS, Anne Caldas & Mark Wyville**, as owners, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA 40:55D-70c from **Montclair Code Section 347-46C** to convert an attached one-car garage on their dwelling into a bedroom, which results in an additional parking space being located between the dwelling and the street, on property designated as Lot 26 in Block 2804 on the Township Tax Map and located in the R-1 One-Family Zone; and

**WHEREAS**, a packet of information was submitted by the applicants that included written information, photographs, a first floor plan sketch, a property survey, and a Sanborn map; and

**WHEREAS**, this matter came on to be heard at a special meeting of the Board of Adjustment held on September 2, 2009 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 and contains a 2½-story single-family dwelling with an attached one-car garage. The subject property measures 102.25 feet in frontage width and 15,338 square feet in lot area.

2. The applicants propose to convert the existing attached one-car garage into a bedroom. The existing one-car garage measures 11 feet wide by 18 feet deep,

although a bathroom exists on the first floor that projects into the garage area, and shortens the 18-foot depth for much of the garage.

3. The New Jersey Residential Site Improvement Standards and **Montclair Code Section 347-101** require 2 parking spaces for the existing dwelling measuring 9 feet wide by 18 long. The garage is considered a parking space by design. The existing parking arrangement or design of the parking on the property is nonconforming in that it does not provide for 2 conforming parking spaces because presently 1 of the 2 off-street parking spaces is located between the front wall of the dwelling and the street.

4. The proposed removal of the garaged parking space with the proposed alterations is considered the removal of a conforming parking space, and results in an additional parking space being located in a nonconforming location between the dwelling and the street, and a variance is requested.

5. The applicants demonstrated hardship in constructing an addition onto the footprint of the dwelling due to the existing stream on the property, as well as the topography of the site. The existing driveway length of 47 feet is long enough to accommodate 2 vehicle parking spaces.

6. The Board determined that the variance requested could be approved based on the physical constraints of the subject property. While many properties in the neighborhood have a similar nonconforming design with a one-car attached garage and 1 parking space between the dwelling and the street, the subject property is distinguished from those properties by these physical constraints, which preclude additions to the footprint of the dwelling. The Board also determined that working within the existing dwelling footprint is favorable, and that the application would have no substantial detriment to 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 **Anne Caldas & Mark Wyville** is hereby approved, subject to the following condition:

1. There shall be no change to the footprint of dwelling.

**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. Susswein, seconded by Mr. Kenney, the following Resolution memorializing the Board's decision on the application of **William Beren and JoAnn Katzban, 98 Gordonhurst Avenue** was adopted, Mr. Burr and Ms. Cockey abstaining:

**WHEREAS, William Beren and JoAnn Katzban**, as owners, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA 40:55D-70c from **Montclair Code Section 347-45C(1)** to permit a side yard setback less than required for a proposed one-story addition at the rear of their dwelling, on property designated as Lot 8 in Block 3501 on the Township Tax Map and located in the R-1 One-Family Zone; and

**WHEREAS**, the applicants submitted a property survey dated May 23, 1992, and a plot plan, existing and proposed floor plans, and proposed elevations, prepared by Christopher O. Dougherty, RA, AIA, LLC dated June 5, 2009; and

**WHEREAS**, this matter came on to be heard at a special meeting of the Board of Adjustment held on September 2, 2009 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, and measures 50 feet in lot frontage width and 8,420 square feet in lot area. The subject property contains a 2-story single-family dwelling with a detached garage.

2. The applicants are proposing to modify an existing deck at the rear of the dwelling and construct a one-story addition that would align with the easterly side wall of the dwelling. The proposed addition contains an expanded kitchen and a half-bathroom.

3. The existing dwelling has a nonconforming easterly side yard setback of approximately 4.05 feet. The proposed addition would align with the existing easterly side wall of the dwelling and a variance is requested in that a side yard setback of 6 feet is required from the easterly side property line and a lesser setback of approximately 4.05 feet is proposed. The proposed addition complies with all other zoning requirements.

4. The Board determined that the variance requested could be approved as submitted. The proposed addition is one-story in height, is modest in size, would align with the existing easterly side yard setback of the dwelling, and would not further encroach on the easterly side yard. The proposed addition would not have a negative impact on any neighboring property.

**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 **William Beren and JoAnn Katzban** 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. Susswein, seconded by Mr. Kenney, the following Resolution memorializing the Board's decision on the application of **Joshua Feldman and Miranda Sherwin, 35 Woodmont Road** was adopted, Mr. Burr and Ms. Cockey abstaining:

**WHEREAS**, **Joshua Feldman and Miranda Sherwin**, as owners, did make an application to the Board of Adjustment of the Township of Montclair for a variances pursuant to NJSA 40:55D-70c from **Montclair Code Section 347-39A** to exceed 2½ stories, and from **Montclair Code Section 347-39B(2)(a)** to permit a front yard setback less than required for a proposed addition onto their dwelling, on property designated as Lot 72 in Block 4702 on the Township Tax Map and located in the R-0(a) One-Family Zone; and

**WHEREAS**, the applicants submitted a plot plan, floor plan, and elevations prepared by Jordan Rosenberg Architects and Associates dated July 20, 2009, and a property survey dated December 19, 2000; and

**WHEREAS**, this matter came on to be heard at a special meeting of the Board of Adjustment held on September 2, 2009 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 irregularly shaped interior lot located in the R-0(a) One-Family Zone and contains a single-family dwelling with an attached garage. The property measures 199.5 feet in total lot frontage width and 18,500 square feet in lot area. The existing dwelling is a ranch style house except that the attached garage is at the basement level at the left side of the house where the adjoining grade is lower to allow for access to the garage doors.

2. An addition is proposed to create a second floor over the majority of the existing first floor living space. An addition is also proposed at the first floor at the rear of the dwelling which fully complies with zoning. The first floor would be remodeled. The proposed second floor would contain bedrooms and bathrooms.

3. Due to the fact that the first floor on the southerly side of the dwelling is more than 6 feet above the adjoining grade, the basement of the dwelling, which contains 2 garage doors on the southerly side of the dwelling, is counted as a story above grade. As a result, the existing first floor level is a second story, the proposed second floor addition a third story, and the attic floor within the addition is a half-story. Consequently, the dwelling with the proposed addition is considered to be 3½ stories as viewed from the southerly side elevation. The maximum permitted is 2½ stories, and a variance is requested.

4. The front property line is curved. The average front yard setback of the 4 nearest principal dwellings, 2 on either side of the subject property, is 45.56 feet, which is the minimum allowed front yard setback for new construction on the subject property. The proposed second floor addition is set back 36.28 feet at its closest point to the front property line and a variance is requested.

5. The Board determined that the variance requested for the front yard setback could be approved. The proposed addition above the first floor does not encroach any closer than the first floor directly below it and the front setback requirement is skewed by the unusually large front setback of the dwelling on the adjoining lot to the south, which is approximately 77 feet.

6. The Board also determined that the variance requested for exceeding 2½ stories could not be approved. No testimony was provided to demonstrate there are existing dwellings in the immediate neighborhood that are 3½ stories and that the dwelling would remain in keeping with the neighborhood from the standpoint of number of stories. The southerly elevation is clearly viewed from the road, and the plan submitted proposes a flat wall on the southerly elevation extending upward 3½ stories from the ground, which is against the purpose and intent of the ordinance limiting the number of stories; and

**WHEREAS**, the Board, based on the foregoing findings regarding the variance requested for exceeding 2½ stories, concluded that the applicants did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and did not prove 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 foregoing findings regarding the variance requested for exceeding 2½ stories, 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 did not prove 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 variance requested for the front yard setback, 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); and

**WHEREAS**, the Board, based on the foregoing findings regarding the variance requested for the front yard setback, concluded that the applicants did prove that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and did prove 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 to exceed 2½ stories is denied, and the variance requested for the front yard setback is approved, subject to the following condition:

1. The front yard setback of the proposed addition above the first floor shall not be less than the existing front setback of the first floor directly below it.

**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 scheduling of special meeting dates to continue the application of **Omnipoint Communications, Inc., 153 Park Street**, was postponed until the October 21, 2009 regular meeting of the Board at the request of the applicant. No further notice would be given. The Board had been granted an extension of time on the application.

The continuation of the application of **Wallwood Gardens, Inc, 400 Orange Road** was postponed until the November 18, 2009 regular meeting of the Board at the request of the applicant. The applicant would be required to complete a full public notice for the November 18, 2009 date. The Board had been granted an extension of time on the application.

The continuation of the application of **Joseph & Holly Christovao, 22 Macopin Avenue** was postponed to the October 21, 2009 regular meeting of the Board at the request of the applicants. No further notice would be given. The Board had been granted an extension of time on the application.

The application of **Falad Properties, LLC, 39-41 North Fullerton Avenue** and **David A. Faloni, Sr. and Molly Cotton, Forest Street** and **Cofal Properties, LLC, 32 Forest Street and 43 North Fullerton Avenue**, was postponed to the October 21, 2009 regular meeting of the Board at the request of the applicants. No further notice would be given. The Board had been granted an extension of time on the application.

Chair Harrison called the application of **Michael D'Orlando, 401 Upper Mountain Avenue**. The applicant and Lawrence Korinda, Architect, were sworn. Mr. Korinda described the application for variances to exceed 2½ stories and to exceed the maximum permitted principal structure width, for a proposed addition onto the existing dwelling. The property is an interior lot and measures 50 feet in total lot frontage width. The property shape is an irregular rectangle, and its depth is 266.93 feet at its longest dimension. The property contains a single-family dwelling with a detached garage in the rear yard. The existing detached garage would be demolished. An addition is proposed at the rear and northerly side of the dwelling. The addition would contain a 2-car garage at the basement level and the paved area of the driveway would be extended around the rear of the dwelling to access the new garage.

Mr. Korinda withdrew the variance originally requested to allow the height of the addition to exceed the maximum permitted height of 35 feet. Based on topographic information obtained by their Engineer in completing the calculations for the Board Engineer's drainage review of the project, the height of the addition would measure 33 feet 8 inches. The proposed addition includes an extension of the existing basement level towards the rear to create the garage. A first floor extension is proposed over the garage addition. A second floor and an attic floor extension, each smaller than the floor below it, is also proposed as part of the addition. The first floor level of the addition is more than 6 feet above grade; therefore the basement level garage is counted as a story; the first floor is the 2<sup>nd</sup> story; the second floor is the 3<sup>rd</sup> story, and the attic is a half-story. A variance is requested in that a maximum of 2½ stories permitted, and the addition contains 3½ stories. The proposed addition adds 2 feet 4 inches of width to the dwelling on the northerly side. The proposed width of the dwelling, taken from its widest points, which are the southerly edge of the existing wrap-around front porch on the southerly front corner and the northerly side wall of the addition, measures 38.23 feet, or 76.46 percent of the lot frontage width. A variance is requested in that the proposed addition partially widens the dwelling beyond the maximum permitted dwelling width of 32.5 feet.

Marked in into evidence were:

- A-1 Plot Plan with color prepared, by Lawrence Korinda, Architect, dated July 31, 2009
- A-2 Map depicting subject property and adjoining properties, prepared by Lawrence Korinda, Architect, dated September 15, 2009

- A-3 Floor Plans with color, prepared by Lawrence Korinda, Architect, dated July 31, 2009
- A-4 Floor Plans with color, prepared by Lawrence Korinda, Architect, dated July 31, 2009
- A-5 Elevations with color, prepared by Lawrence Korinda, Architect, dated July 31, 2009

The Board questioned Mr. Korinda. Chair Harrison called for questions or comments from the public. Nick Fiornascente, 165 Valley Road was sworn. He asked if the dwelling was being converted to more dwelling units. Mr. Korinda stated that it was not. Mr. Fiornascente made general comments about other ongoing or completed projects in Montclair that did not relate to the application. The Board discussed the application. The majority of the Board determined that the requested variance to exceed 2½ stories could be granted. The topography of the lot slopes downward at the rear of the dwelling, which causes the first floor of the addition to be more than 6 feet from grade. The location of the addition at the rear of the dwelling and the design of the levels of the addition, where the second floor and attic floor extensions are each smaller than the floor below it, both minimize the impact of the addition and the appearance of the number of stories. The majority of the Board also determined that the requested variance to exceed the maximum permitted principal structure width could be granted. The position of the dwelling relative to the angled property side property lines creates difficulty in extending the addition further towards the rear as an alternative, since doing so would create a variance for the minimum required 10-foot side yard setback on the driveway side, and would also negatively impact the usability of the driveway. On motion by Mr. Susswein, seconded by Mr. Burr, the application was approved, Mr. Kenney voting against the motion.

Chair Harrison called the application of **Mr. & Mrs. Samuel Givens, 33 Seneca Place**. The applicants, and George Held, Architect, were sworn. Mr. Held described the application for a variance to permit a front yard setback less than required for a proposed one-story addition onto the dwelling. The property is located in the R-1 One Family Zone, on a corner lot formed by intersecting sections of Seneca Place. The property contains a 2½ -story, single-family dwelling with a detached garage and measures 8,100 square feet in lot area. A one-story addition is proposed that would wrap around the northwesterly corner of the dwelling. The plans indicate that the addition would contain an expanded kitchen and a mud room and covered entry. The required front yard setback from the westerly front property line is 25 feet. The existing dwelling has a nonconforming westerly front yard setback of 14.66 feet. The proposed addition would extend 6 feet towards the westerly front property line and would be set back 8.66 feet from the westerly front property line on Seneca Place, which requires a variance.

Marked into evidence were:

- A-1 Existing Floor Plans and Elevations
- A-2 Plot plan, floor plans, and elevations, with color, prepared by George A. Held AIA and Associates, dated May 8, 2009

A-3 to A-8 Photographs of the existing front yard setback and photo-simulations  
of the front setback as proposed

The Board questioned the applicants and Mr. Held. Mr. and Mrs. Givens described the dead-end section of Seneca Place near their property. They stated that the traffic that passes their northerly front yard is very limited. No questions or comments were offered by the public. The Board discussed the application and determined that the variance requested could be approved as submitted. While the subject property is on a corner lot, Seneca Place is not a through street to the north of the subject property and has extremely limited access and visibility to the public. The proposed one-story addition extending into the westerly front yard would also not have a negative impact on any neighboring property due to the configuration of the lots and the dwellings in the immediate vicinity. The applicants also demonstrated that their options in designing any comparable addition are very limited due to the interior configuration of the dwelling and the location of the dwelling on the property. On motion by Mr. Susswein, seconded by Ms. Cockey, the application was approved.

Chair Harrison called the application of **John and Kim Burns, 31 Montague Place**. Kim Burns, and John Guadagnoli, Architect, were sworn. Mr. Guadagnoli described the application for variances for a front yard setback less than permitted, for a side yard setback less than permitted, and to exceed the maximum permitted width, in connection with a proposed second floor addition onto an existing dwelling. The property is a corner lot located at the intersection of Montague Place and Midland Avenue and is located in the R-2 Two Family Zone. The property contains a 2½-story single-family dwelling and a detached garage at the rear of the lot that is accessed by a driveway from Midland Avenue. The property measures 40.90 feet along the frontage on Montague Place, 92.64 feet along the frontage on Midland Avenue, and contains 4,046 square feet in lot area. The applicants propose to construct a second floor addition over an existing one-story section at the rear of the dwelling that would contain two new bedrooms, a laundry room, and a bathroom. A roofed opening along the easterly side wall of the dwelling that leads to a side door for the dwelling would be enclosed with a new wall aligned with the side wall of the rear portion of the dwelling, and the first floor would be remodeled as well.

Mr. Guadagnoli continued to describe the application. The required front yard setback from Midland Avenue is 25 feet. The existing dwelling has a nonconforming Midland Avenue front yard setback, down to a minimum of 9 feet, as measured to the southerly corner of the one-story section at the rear of the dwelling. The proposed second floor addition is generally aligned with the existing first floor below it, except that the corners of the proposed second floor are recessed, and a variance is requested in that a front yard setback of less than 25 feet is proposed from the Midland Avenue front property line. The existing dwelling has a nonconforming side yard setback of 4.41 feet at the area of the one-story section at the rear of the dwelling where the second floor addition is proposed. The second floor addition would be aligned with the side wall of the first floor below it, and would also be set back 4.41 feet from the easterly side line. A variance is requested in that a minimum side yard setback of 6 feet is required and a lesser side yard setback of 4.41 feet is proposed. The existing dwelling has a nonconforming width of approximately 32 feet, or 78.2 percent of lot frontage width,

where a maximum of 26.6 feet, or 65 percent of lot frontage width is permitted based on the frontage width along Montague Place. The proposed addition does not widen the dwelling; therefore the width limitation is applicable to the addition only. The proposed addition itself measures approximately 29 feet in width, or 70.9 percent of lot frontage width. A variance is requested from in that the width of the addition is not permitted to exceed 65 percent of the lot frontage width, or 26.5 feet, and a greater width of 29 feet, or 70.9 percent of the lot frontage width is proposed.

Mr. Guadagnoli withdrew the variance originally requested for exceeding the maximum permitted principal building coverage of 25 percent of the lot area. The existing principal building coverage is approximately 35 percent of the lot area, which is an existing nonconformity. Based on the parts of the dwelling that would be removed as part of the plan, the nonconforming principal building coverage would be slightly reduced, thereby not requiring a variance. Ms. Burns described the existing interior layout of the dwelling, which consists of poorly positioned small rooms not conducive to family living with children. The Board questioned the Ms. Burns and Mr. Guadagnoli. No questions or comments were offered by the public. The Board discussed the application and determined that the requested variances for a front yard setback less than permitted, for a side yard setback less than permitted, and to exceed the maximum permitted width for the addition could be granted. The lot is relatively narrow and shallow, and the existing dwelling is already nonconforming to certain zoning requirements. The proposed addition and alterations to the dwelling are either in keeping with the extent of the existing nonconformity or are slight improvements upon the existing nonconformity. On motion by Mr. Susswein, seconded by Ms. Cockey, the application was approved.

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