

**MINUTES OF THE BOARD OF ADJUSTMENT**  
**November 14, 2012**

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

ABSENT: Mr. Burr and Mr. Reynolds

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. Whipple, the **Minutes of the October 17, 2012** regular meeting were adopted as modified, Mr. Tsai abstaining:

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following resolution memorializing the Board's decision on the application of **Essex Holdings Management, LLC, 174 Harrison Avenue** was adopted, Mr. Tsai abstaining:

**WHEREAS**, Essex Holdings Management, LLC, did make application to the Board of Adjustment of the Township of Montclair to demolish the existing dwelling and construct a two-family dwelling on property designated as Lot 10 in Block 1905 on the Montclair Township Tax Map and located in the R-1 One-Family Zone; and

**WHEREAS**, the applicant requested a variance pursuant to N.J.S.A. 40:55D-70d(1) to allow the proposed use which is not a permitted principal use pursuant to Montclair Code Section 347-41; and

**WHEREAS**, the applicant submitted a site plan, floor plans and elevations prepared by Brinkman Architecture LLC, Sheets A1 through A3 revised through July 27, 2012; and

**WHEREAS**, this matter came on to be heard at meetings of the Board of Adjustment held on August 15 and October 17, 2012 at which time it was established the notice was properly published and the 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 northerly corner of the intersections of Harrison Avenue and Graham Terrace and contains approximately 17,266 square feet of lot area. The property has 115 feet of frontage along Harrison Avenue and 150 feet along Graham Terrace. The property is improved with a two-story frame dwelling with a

footprint of 1,218 square feet including the front porch which is dilapidated due to age, neglect, fire and water damage.

2. The applicant proposes to demolish the existing dwelling and construct a new two and one-half story frame two-family dwelling with a footprint of 2,918 square feet including the front porch. Each unit would contain three bedrooms, two and one-half bathrooms, attached two car garage and a driveway for each unit accessible from a single curb opening on Harrison Avenue.

3. The Zoning Map established the subject property was located in the R-2 Two-Family Zone between 1930 and 1943 and at various times during this period it was occupied as a two-family use. The zoning on the property was subsequently changed to R-1 One-Family Zone as reflected on the 1950 Zoning Map. Subsequent to 1950, the property has been occupied at various times as a two-family use and the municipal tax records since 1972 indicate the property has been assessed as a two-family dwelling.

4. The applicant presented evidence to show the two family use was a feature of the property over a long period of time even when located in the single family zone. The purpose of the evidence, however, was not to attempt to establish any continued rights to the two-family use pursuant to N.J.S.A. 40:55D-68 or to proceed under N.J.S.A. 40:55D-70d(2) seeking an expansion of a nonconforming use. It is well settled that the planned destruction of the structure even if it could be established as a preexisting nonconforming use, would terminate any rights to such use. *Hay v. Bd. of Adjustment of Borough of Ft. Lee*, 37 N.J. Super. 461 (App. Div. 1955) (plan to tear down and replace gas station); *Barbarisi v. Bd. of Adjustment, etc., City of Paterson*, 30 N.J. Super. 11 (App. Div. 1954) (complete destruction of automobile repair shop by fire); *D'Agostino v. Jaguar Realty Co.*, 22 N.J. Super 74 (Ch. Div. 1952) (complete destruction of factory by fire); *DeVito v. Pearsall*, 115 N.J.L. 323 (Sup. Ct. 1935) (proposal to tear down greenhouse and replace with larger one).

5. The applicant cited *Burbridge v. Mine Hill Tp.*, 117 N.J. 376 (1990) and argued that "special reasons" exist for approval of the application in that one or more purposes of the Municipal Land Use Law contained in N.J. S.A. 40:55D-2 were advanced. Specifically, the applicant asserted approval would promote the general welfare (-2a); provide adequate light, air and open space (-2c); promoted appropriate population densities (-2e); provide sufficient space in an appropriate location for residential use (-2g); encourages free flow of transportation routes (-2h); promotes a desirable visual environment (-2i) and provides a more efficient use of land (-2m). The applicant's planner testified the property could be subdivided into two lots for single family homes fully conforming with the use and bulk requirements contained in the R-1 One-Family Zone. He also admitted that the applicant could construct a single family home on the property consistent with all applicable zoning regulations. The applicant, however, argued that the proposed two family use was a better alternative with potentially less building coverage, floor area and tree removal. The Board did not find the applicant's arguments persuasive and determined the proposed two-family use in a

single family zone did not promote the general welfare simply because two-family use had been a feature of the property in the past since establishment of a new two-family use is more appropriately located within the various zones in the Township where permitted. In addition, adequate light, air and open space as well as a desirable visual environment could be equally accomplished through either a subdivision or construction of a single family home. The Board agreed with the testimony of many of the area residents who believe the applicant's two-family proposal was the least desirable of the aforementioned development options.

6. The applicant argued that it was entitled to the variance since the property was unique and oversized. This argument, however, fails when area properties within the R-1 One-Family Zone are taken into account. The adjacent property to the north on Harrison Avenue (Block 1905, Lot 9) contains a single family home and is over twice the size of the subject property. The next home to the north on Harrison Avenue (Block 1905, Lot 8) is slightly larger than the subject property. In addition to the north, the properties along the southerly side of Sutherland Road with the exception of one lot, are all larger size lots. The arguments advanced by the applicant for the granting of the variance would equally apply to a number of other area lots in the R-1 One-Family Zone. For this reason, approval of this application would degrade the single family zone and open the door for similar applications and further degradation. Consequently, the Board finds approval of this application would substantially impair the intent and purpose of the zone plan and zoning ordinance.

7. In order to grant the requested relief, the applicant must present sufficient evidence to prove an "enhanced quality of proof . . . that the variance sought is not inconsistent with the intent and purpose of the master plan and zoning ordinance". *Medici v. BPR Co.*, 107 N.J. 1, 21 (1987). The zoning change to R-1 One-Family Zone on or around 1950 evidenced a clear legislative finding by the governing body that two-family uses within the newly created zone boundary including the location of the subject property are inconsistent with the intent and purpose of the Zoning Ordinance. Although two-family uses were previously allowed, they were no longer considered consistent with the intent and purpose of the Zoning Ordinance at this location. With respect to any nonconforming two-family uses, long standing New Jersey public policy is to restrict such uses and bring them into conformity as quickly as is compatible with justice. *Town of Belleville v. Barrillo's Inc.*, 83 N.J. 309, 315 (1980); *Berkeley Square v. Zoning Bd.* 410 N.J. Super. 255, 263 (App. Div. 2009). With regard to applications for a use variance pursuant to N.J.S.A. 40:55D-70d(1) to permit a new two-family use in a single family zone, such as is the case here, there is a strong legislative policy favoring land use planning by ordinance rather than by variance and the grant of such a variance will always be the exception rather than the rule. *Sica v. Board of Adjustment of Tp. of Wall*, 127 N.J. 152, 156 (1992). The Board determined that the applicant failed to prove the "enhanced quality of proof" under *Medici* in that the proposal is inconsistent with the intent and purpose of the zoning ordinance which seeks to preserve the single family character of the R-1 One-Family Zone.

8. The 2006 Master Plan Reexamination Report did not recommend that the subject property be rezoned to permit two family uses. Land use goals of the reexamination include the following:

- Maintain Montclair as a desirable residential community accommodating a range of population and income groups. The racial, income and age mix of Montclair's citizens is desirable and representative of this region of the State, and land use policies should seek to preserve this range and balance.
- Ensure that new development is harmonious with existing development in scale and style and does not harm the quality of life of surrounding neighborhoods, particularly at a time when development pressures are high.

The Master Plan recognizes two family uses are permitted in a number of zones within the Township. Preservation of the R-1 Zone is an overriding theme and approval of this application would undermine the land use goals of the Master Plan.

**WHEREAS**, the Board, based on the foregoing findings, concluded that the applicant failed to prove the requisite special reasons for the granting of this application and failed to prove by a preponderance of the evidence that the proposed relief could be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township of Montclair, that the within application of Essex Holdings Management, LLC is hereby denied.

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

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following resolution memorializing the Board's decision on the application of **Kevin & Tara Griswold, 97 Mt. Hebron Road** was adopted, Mr. Tsai abstaining:

WHEREAS, Kevin & Tara Griswold, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A. 40:55D-70c to construct a roofed entry landing at the front of the single-family dwelling, on property designated as Lot 2 in Block 1001 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the property is a corner lot at the intersection of Mt. Hebron Road and College Avenue, and a variance is requested from Montclair Code Section 347-

45B(2) to allow less than the minimum permitted front yard setback of 25 feet from the Mt. Hebron Road front property line; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on October 17, 2012, at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the applicant submitted a property survey dated September 15, 2005, drawings of the proposed roofed entry, and photographs of the front of the dwelling; and

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

1. The property is a corner lot at the intersection of Mt. Hebron Road and College Avenue, located in the R-1 One-Family Zone, and contains a single family dwelling.

2. The existing enclosed porch on the dwelling is being modified to be incorporated into the interior space of the dwelling. As part of that project, a roofed landing measuring 6 feet wide by 3 feet long is proposed at the existing front doorway facing Mr. Hebron Road. An unroofed stair is also proposed and is permitted to project into the front yard setback.

3. The minimum permitted front yard setback for the proposed roofed landing is 25 feet from the Mt. Hebron front property line. The applicant provided a copy of the property survey for the next door dwelling on the westerly side of the subject property, which indicates a front yard setback of 13.71 feet for that dwelling from the Mt. Hebron Road front property line. The proposed roofed landing would be set back approximately 18.38 feet from the Mt. Hebron Road front property line and a variance is requested.

4. The Board determined that the requested variance could be approved. The proposed roofed landing provides functional and aesthetic improvements and will not have a negative impact on any nearby property; and

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

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the 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 the requirements of NJSA40:55D-70C(2); and

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

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

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following resolution memorializing the Board's decision on the application of **Rogier Intres, 23 Chester Road** was adopted, Mr. Tsai abstaining:

WHEREAS, Rogier Intres, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A. 40:55D-70c to construct decking in the rear yard on the southerly side of the dwelling, on property designated as Lot 23 in Block 4601 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, a variance is requested from Montclair Code Section 347-45D for a rear yard setback less than required from the southerly property line; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on October 17, 2012, at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the applicant submitted a property survey dated December 16, 2009 and a drawing of the proposed decking; and

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

1. The property is located in the R-1 One-Family Zone and contains a single family dwelling with an attached garage. It is the last property on the southerly side of the dead end street and abuts Brookdale Park. Wood decking is proposed in the rear yard on the southerly side of the dwelling.

2. The dwelling is positioned so the main entry door and main facade face east towards Brookdale Park rather than the front property line on Chester Road. This orientation does not affect the designation of the yards for the property or the setback requirements pursuant to the zoning ordinance.

3. The rear property line of the subject property is the southerly property line which is opposite the Chester Road front property line. The minimum rear yard setback for new construction attached to the dwelling such as the proposed decking is 30.3 feet. The proposed decking would cover 627.5 square feet. 529.5 square feet of decking would be 10 inches from the ground and another section of decking measuring 98 square feet would be 14 inches from the ground.

4. The existing enclosed porch on the southerly side of the dwelling is approximately 30 feet from the rear property line as it essentially abuts the rear yard setback line. Most of the decking that is proposed requires a variance as it lies within the required rear yard setback. The decking is proposed to be 4 feet from the rear property line at the maximum extent and a variance is requested.

5. The Board determined that the requested variance could only be approved with a modified plan. The odd positioning and placement of the dwelling on the lot creates hardship for the applicant in constructing a fully compliant and useful rear yard deck, however, the Board determined that the rear yard setback should be increased to be no less than 11 feet, and subject to other limitations, as stated in the condition of approval below; and

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

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the 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 the requirements of NJSA40:55D-70C(2); and

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

1. The rear yard setback of the proposed decking shall be at least 11 feet. The decking that benefits from the rear yard setback variance shall not exceed 30 feet in width, shall not exceed 14 inches in height from grade measured to the deck surface, and must otherwise comply with the zoning 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.

On motion by Mr. Fleischer, seconded by Mr. Whipple, the following resolution memorializing the Board's decision on the application of **Ellen Sander, 12 Garden Street** was adopted, Mr. Tsai abstaining:

WHEREAS, Ellen Sander, did make an application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A. 40:55D-70c associated with a proposed fence along a section of the westerly side property line, on property designated as Lot 2 in Block 3407 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, a variance is requested from Montclair Code Section 347-27A(1) to allow a 7 foot fence height where a maximum height of 4.5 feet is permitted; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on October 17, 2012, at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the applicant submitted a property survey and a packet of information from the applicant including written information, diagram and photographs; and

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

1. The property is located in the R-1 One-Family Zone and contains a single family dwelling. The westerly side property line abuts a property occupied by Watchung Elementary School.
2. Along the side property lines of an interior lot, the zoning ordinance permits fences of up to 7 feet in height up to the point that is aligned with the rear corner of the dwelling on that side of the lot. In the side yards and front yard areas, the maximum fence height is 4.5 feet.
3. The applicant is seeking a variance to allow a 7 foot height for a proposed privacy fence in the westerly side yard of her property along the westerly side property line abutting the school property, to be aligned with the front corner of her dwelling, excluding the front porch of the dwelling.
4. The Board determined that the requested variance could be approved due to the variety of unique circumstances related to the application. The applicant's westerly side yard abuts a school property that is highly likely to remain such a use in the long term and the school property has an existing and lawful 7 foot tall chain link fence that runs the length of the property line separating the properties. The proposed privacy fence will provide additional screening of the parking area and dumpster area



located on the adjoining school property and the proposed fence height will not have a negative impact on any nearby property. The mature deciduous trees in the westerly side yard also prevent evergreen plantings from being a viable option to provide the desired visual screening; and

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

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the 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 the requirements of NJSA40:55D-70C(2); and

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

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

It was announced that at the request of the applicant, the continuation of the application of **Montclair Child Development Center, Inc., 33 Fulton Street** was postponed until the December 19, 2012 meeting of the Board. The Board was granted an extension of time and no further notice will be given. It was also announced the application of **Frank & Mary Ann Cerino, 665 Bloomfield Avenue** regarding an appeal of a zoning administrative decision was postponed at the request of the applicant, until the December 19, 2012 meeting of the Board.

The application of **Montclair Kimberly Academy Foundation, 40 Upper Mountain Avenue** was announced. Alan Trembulak, Esq., appeared as attorney for the applicant and described the application. Richard Sunshine, Assistant Headmaster, was sworn and described the property and the application. MKA operates an independent school with grades from pre-kindergarten through twelfth grade on three campuses. MKA received approval to construct an athletic field at the subject property by resolution adopted by the Montclair Planning Board on November 3, 1986. They propose to enlarge the existing athletic field and convert it to synthetic turf primarily for girls field hockey, boys and girls lacrosse practices and competitive games against other schools in those sports. Portable bleachers on wheels will be located behind the benches. The existing two story 3,700 square foot building which is deteriorating and utilized for bathroom facilities and storage will be demolished and replaced with a new 3,810

square foot one story field house containing changing rooms, bathroom facilities and storage.

The Board questioned the witness. Mr. Trembulak reviewed the conditions of the 1986 approval and stated that the applicant would continue to comply. Mr. Sunshine stated that the field would not be used for football or soccer games. The bleachers would provide the same amount of seating as the existing bleachers. Chair Harrison called for questions from the public. Tina Bennett, 39 Upper Mountain Avenue asked if any lights are proposed to light the field. Mr. Sunshine stated that no light fixtures will be used to light the field. Amy Putman, 70 Upper Mountain Avenue, asked if the parking lot will be screened, asked about drainage improvements, and if a new scoreboard or speakers are proposed. Mr. Sunshine stated that the Landscape Architect will address the landscaping and drainage and that no new scoreboard or speakers will be used. The Board questioned the witness. Mr. Sunshine explained the flexibility MKA is seeking in terms of the usage of the field.

John Williams, Landscape Architect, was sworn and stated his qualifications. Mr. Williams described the plans in detail. The property will be regraded and retaining walls installed and the existing berm at the southern end of the field will be eliminated and replaced by a paved parking area consisting of 23 spaces including two handicap spaces, curbing, lighting and a gravel area to allow for buses to turn around. The plans have been amended to show retaining walls that comply with the zoning ordinance. A concrete plaza will be built around the field house, with a concrete sidewalk extending from the field house to the bleacher area. The existing driveway will be relocated 20 feet south from its present location. Substantial plantings including deciduous and evergreen trees shall be added around the perimeter of the site. The dwelling located on the property to the north is approximately 88 feet from the northerly side property line of the site. Mr. Williams described the drainage plan, tree removals, and proposed plantings.

Exhibits marked:

- A-1 Sheet R-1 Demolition & Removals Plan, MKW + Associates, LLC dated 11/14/12
- A-2 Sheet L-1 Plan Rendering, MKW + Associates, LLC dated 11/14/12
- A-3 Sheet SL-1 Site Lighting Plan, MKW + Associates, LLC dated 11/14/12
- A-4 Correspondence from CityScape Engineering & Surveying, dated 11/01/12
- A-5 Sheet SK-1 Revised Grading at North Retaining Wall, MKW + Associates, LLC dated 11/14/12
- A-6 Sheet SK-2 Adjacent Building Offset from Property Line, MKW + Associates, LLC dated 11/14/12

The Board questioned the witness. Mr. Williams addressed questions regarding the field boundaries depicted on the plans and safety issues related to the proximity to retaining walls and different ground surfaces and stated that the plan could be revised to increase the buffer area. Mr. Williams stated that the Professional Engineer who did

the drainage report would have to address whether the project needs to comply with any NJDEP requirements. He also addressed several questions regarding the tree planting plan. Chair Harrison called for questions from the public. Tina Bennett, 39 Upper Mountain Avenue, asked if the existing fence, brick piers, and hedges along the front property line would remain. Mr. Williams stated that those features would remain. The Board took a short recess. When the hearing resumed, Mr. Trembulak recalled John Williams, Landscape Architect. Mr. Williams stated that the buffer area between the field boundaries and the retaining walls and the gravel surfaces could be increased by 10 feet on the northerly and southerly sides of the field.

Mr. Trembulak called Walter Kneis, Architect, was sworn and stated his qualifications. Mr. Kneis described the plans for the proposed field house in detail. The building is designed to have a residential aesthetic. He described the dimensions and the materials to be used. He also described the proposed location of the building on the site and the interior of the building. The plan has been revised to add 2 windows to the elevation that faces Upper Mountain Avenue in order to increase the residential appearance of the building.

Exhibits marked:

- A-7 Sheet A1.00 First Floor Plan & Exterior Elevations, NK Architects, dated 7/05/12
- A-8 Sheet A3.00H Exterior Elevations, NK Architects, dated 7/05/12

The Board questioned the witness. Mr. Kneis answered several questions about the design of the building. No questions or comments were offered by the public. Mr. Trembulak stated that he had no further witnesses summarized the application. The Board discussed the application and determined that the application could be approved subject to several conditions. On motion by Mr. Fleischer, seconded by Mr. Whipple, the application was approved, subject to the following conditions:

1. No goal posts or other permanent structures shall be installed on the subject property, other than those shown on the site plan.
2. No athletic activities shall be permitted on Saturdays or Sundays except for reasons of scheduling emergencies.
3. Competitive games against other schools shall be limited to lacrosse and field hockey, except for reasons of scheduling emergencies; however, under no circumstances shall competitive football games against other schools be permitted at any time.
4. The applicant shall comply with comments 2 through 14 contained in the report dated September 20, 2012 from W. Thomas Watkinson, P.E., P. P., Board Engineer.

5. No temporary or permanent lighting of the athletic field shall be permitted.
6. The applicant shall provide detail of the new portable bleachers to the Planning Department within thirty days of adoption of this resolution in order to confirm no enlargement of the size of the existing portable bleachers.
7. A permanent scoreboard shall not be permitted on site.
8. Parking lot lights shall be on timers and turned off two hours after sunset.
9. The applicant shall adhere to the lighting plan marked as Exhibit A-3 (Sheet SL-1 Site Lighting Plan, dated November 14, 2012, prepared by MKW & Associates, LLC) at the public hearing.
10. The applicant shall adhere to the landscaping plans marked as Exhibits A-2 (Sheet L-1 Plan Rendering, dated November 14, 2012, prepared by MKW & Associates, LLC) and A-6 (Sheet SK-2 Adjacent Building Offset From Property Line, dated November 14, 2012, prepared by MKW & Associates, LLC) at the public hearing.
11. All retaining walls shall conform to Ordinance standards.
12. Setbacks from the playing field shall be a minimum of 37 feet on the westerly side, 25 feet on the easterly side and 27 feet on the northerly side.
13. The plans shall be revised to reflect the tic marks at the northerly and southerly ends of the field shall be moved in ten feet from their current location.
14. The applicant shall comply with all applicable stormwater quality standards subject to the review and approval of Board Engineer Watkinson.
15. No permanent sound amplification system shall be permitted.
16. The applicant shall be responsible for payment of all escrow fees incurred in connection with review of this matter.

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