



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT

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MINUTES OF THE BOARD OF ADJUSTMENT November 16, 2011

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

ABSENT: Mr. Edwards, Vice Chair Fleischer, Ms. Holloway, Mr. Whipple, and Ms. Talley, 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 Ms. English, seconded by Mr. Susswein, the **Minutes of the October 19, 2011** regular meeting were adopted as modified.

On motion by Mr. Burr, seconded by Ms. Cockey, the following resolution memorializing the Board's decision on the application of **French Institute Alliance Francaise, 37 North Mountain Avenue & 323 Claremont Avenue** was adopted:

WHEREAS, French Institute Alliance Francaise (hereinafter "FI AF"), did make application to the Board of Adjustment of the Township of Montclair for minor site plan approval to utilize the first floor of the carriage house as a French language school on property designated as Lots 19 and 20 in Block 1507 on the Township Tax Map and located in the R-3 Garden Group Zone; and

WHEREAS, the applicant requested relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(1) as the proposed use is not permitted in accordance with Montclair Code Section 347-53.
2. Variances pursuant to N.J.S.A. 40:55D-70c to utilize the existing freestanding and wall mounted signs which are not permitted pursuant to Montclair Code Section 347-107.

WHEREAS, the applicant submitted a site plan and floor plans prepared by Sionas Architecture, PC, Sheets SP-1 and SP-2 dated August 26, 2011; and

WHEREAS, this matter came on to be heard at meetings of the Board of Adjustment held on September 21 and October 19, 2011, 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 northeast corner of North Mountain Avenue and Claremont Avenue consisting of 54,190 square feet of lot area and improved with three principal structures. The three story Georgian Inn, a 13-unit hotel operating since 1944, has ground floor office space and is located on Lot 20 closer to North Mountain Avenue. The carriage house on Lot 20 which is the subject of this application, is located near the northeast corner of the site and contains first floor vacant office space with one residential apartment on the second floor. The property also contains an existing three family dwelling on Lot 19 and is improved with a shared parking lot containing 55 parking spaces including two handicap spaces. The property was designated as a historic landmark by the Township Council on November 8, 2010.

2. The applicant seeks to utilize the first floor office space of the carriage house as a French language school for both children and adults operating six days a week. FIAF is a 501(c)(3) not-for-profit organization whose mission is to create and offer innovative and unique programs and education in the arts that explore the evolving diversity and richness of French culture

3. The required parking on site is distributed as follows:

Use	Description	Required Parking
Hotel	13 Units	13
Office (Georgian Inn)	1,784 sq. ft.	7
Medical (Georgian Inn)	950 sq. ft.	6
Apartments	4 apartments	8
School	1,912 sq. ft.	19
Total		53

Subject to compliance with condition 1, the site will contain 54 parking spaces which is sufficient to provide for the proposed mix of uses.

4. At the October 19, 2011 public hearing, the applicant presented a lighting plan prepared by Sionas Architecture, PC revised October 5, 2011 marked as Exhibit A-5 which depicted 18 existing building-mounted lights and one street light which the Board determined provided adequate on-site lighting.

5. At the September 21, 2011 public hearing, the applicant produced a sign plan prepared by Sionas Architecture, PC dated September 21, 2011. The plan depicted replacement of the existing free standing and wall mounted signs which require variances because they do not relate to a permitted use. The Board

determined the signs are appropriate and necessary to facilitate identification of FIAF's proposed use.

6. This unique site is particularly suited for FIAF's proposed use as the first floor of the carriage house is of sufficient size to accommodate all activities and the testimony established safe and efficient vehicular on-site traffic circulation.

7. Approval of this application advances the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et seq., specifically encouraging appropriate use of land which promotes the public health, safety, morals and general welfare (-2a); provides sufficient space in an appropriate location for the proposed use (-2g); promotes a desirable visual environment (-2i) and promotes conservation of historic sites (-2j).

8. Approval of this application is not inconsistent with the intent and purpose of the Master Plan which seeks harmonious development which will not harm the quality of life of surrounding neighborhoods, encourages shared off-street parking and preserves historic sites.

9. Based upon the Board's particular knowledge of local conditions, the within application will not adversely impact the public good.

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

WHEREAS, the Board, based on the aforementioned findings, concluded that with respect to the sign variances, the applicant proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and that the benefits of the deviation would substantially outweigh any detriment and would not cause substantial detriment to the public good and would not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance pursuant to the requirements of N.J.S.A. 40:55D-70c(2).

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair, that the within application of French Institute Alliance Francaise for minor site plan approval, use and sign variances is hereby approved subject to the following conditions:

1. Parking Space number one and associated enclosure shall be removed and the vehicle may be relocated on site provided it does not render the parking nonconforming or block drive aisles.

2. Approved signs shall be limited to the sign plan prepared by Sionas Architecture, PC dated September 21, 2011 introduced at the September 21, 2011 public hearing as Exhibit A-3.
3. Hours of operation shall be limited to Monday through Saturday 8:30 a.m. to 9:30 p.m.
4. A Certificate of Appropriateness shall be obtained from the Historic Preservation Commission prior to any improvements to the façade including but not limited to signage and lighting.
5. Additional fencing shall be added to the trash enclosure in order to screen it in accordance with the Ordinance.
6. This approval is limited to utilization of the first floor of the carriage house.
7. A directional sign shall be added at the exit driveway on North Mountain Avenue in conformance with Section 347-108J.
8. The applicant shall be responsible for all inspection fees required under Montclair Code Section 202-27 as well as escrow fees incurred in connection with review of this matter.

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. Burr, seconded by Ms. Cockey, the following resolution memorializing the Board's decision on the application of **Nigel & Amber Gilbert, 3 Bellaire Drive** was adopted:

WHEREAS, Nigel & Amber Gilbert, owners of property at 3 Bellaire Drive, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70c, to construct a new parking area for 2 vehicles on property designated as Lot 11 in Block 1515 on the Township tax map and located in the R-1 One-Family Zone; and

WHEREAS, the property is a corner lot located at the intersection of Bellaire Drive and Valley Road, and the yard situated between the dwelling and the Valley Road property line is a front yard. The new parking area would be located in the Valley Road front yard of the property, which is not permitted, and a variance is requested from Montclair Code Section 347-46C; and

WHEREAS, the applicant submitted a property survey dated August 13, 2007 and plans prepared by Sionas Architecture, PC dated July 26, 2011; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on October 19, 2011 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 property is a corner lot located at the intersection of Bellaire Drive and Valley Road. The lot is located in the R-1 One Family Zone and contains a single family dwelling with an attached garage at the basement level on the westerly side of the dwelling. The existing basement level garage is accessed by a driveway from Bellaire Drive that slopes down towards the garage.

2. In March 1993, the Board of Adjustment approved a front setback variance for an addition on the westerly side of the dwelling that included the attached garage at the basement level.

3. The testimony and exhibits provided indicate that the existing sloping driveway and basement level garage door facing the street are unattractive and difficult to use due to the narrowness of the driveway and the garage door opening, and the bend and the slope in the driveway. It was also demonstrated that the property has experienced a severe flooding problem in which a large amount of storm water collects in the driveway and fills the basement causing damage to the property.

4. To correct the problems associated with the existing driveway and garage, the existing garage entrance will be removed; the garage door opening will be removed and filled in with a new masonry wall. The existing sloped driveway will be removed and the existing sloping driveway area will be filled in and elevated up to the adjoining grade level. A bilco type basement door would be added to maintain access to an existing pedestrian door that is located the bottom of the existing driveway next to the existing garage door.

5. A new 19-foot wide driveway would be constructed on the newly graded area. The proposed driveway would overlap much of the existing driveway footprint. A 20-foot wide parking area for 2 vehicles positioned side-by-side is proposed at the end of the driveway, which is located along the westerly side of the dwelling, between the dwelling and Valley Road, which is a front yard and requires a variance.

6. The Board determined that the requested variance could be approved subject to a condition specified below. The existing driveway and basement level garage are poorly designed, are unattractive and difficult to use, and are contributing to the severe flooding of the driveway and basement of the dwelling. The applicant demonstrated that there are limited areas on the corner lot for a conforming parking area that would not cause further removal of landscaped areas and impact the already limited rear yard space. The proposed parking area would be effectively shielded by

existing evergreen hedges along the Valley Road front property line that will be maintained as a condition of approval; and

WHEREAS, the Board concluded, based upon the foregoing findings, 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 concluded, based upon the foregoing findings, 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 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 application was approved, subject to the following conditions:

1. An evergreen hedge at a minimum height of 4 feet tall shall be maintained along the Valley Road front property line, extending at minimum from the required Bellaire Drive front setback line depicted on the plans northward to align with the northernmost end of the proposed parking area.

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. Burr, seconded by Ms. Cockey, the following resolution memorializing the Board's decision on the application of **Alex Davies, 250 Upper Mountain Avenue** was adopted, as modified:

WHEREAS, Alex Davies, owner of property at 250 Upper Mountain Avenue, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70c, associated with proposed additions to the dwelling on property designated as Lot 9 in Block 602 on the Township tax map and located in the R-0 Mountainside Zone; and

WHEREAS, the applicant submitted a property survey dated August 17, 2004 and plans prepared by John Reimnitz Architect, PC dated August 8, 2011; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on October 19, 2011 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 has requested a variance from Montclair Code Section 347-33B(1) for a front yard setback less than required. It was determined at the public hearing that a variance was not required from Montclair Code Section 347-33A(2) for exceeding 2½ stories; and

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

1. The property is located in the R-0 Mountainside Zone, measures 49,120 s.f. in lot area and 186.61 feet in frontage width, and contains a single family dwelling with an attached garage located at the ground level at the front wall of the dwelling.

2. In December 1995, the Board of Adjustment approved a front setback variance for an addition on the northerly side of the dwelling. At that time, the zoning ordinance calculated the required front yard setback using only 2 properties, 1 on each side of the subject property.

3. The dwelling is proposed to be enlarged with a variety of additions. The basement, first floor, and second floor would be expanded in several areas. An attic floor is proposed over part of the dwelling and the dwelling would have new roofline. A detached garage is proposed in the rear yard which complies with the zoning requirements.

4. The minimum permitted front yard setback for additions to the dwelling on the property is the average front yard setback of the 4 nearest dwellings, 2 on either side of the property, which is approximately 222 feet according to the information provided by the applicant.

5. The dwelling has an existing minimum front yard setback of approximately 134.5 feet, which is nonconforming due to the larger average front yard setback of the 2 properties on each side of the property.

6. The required front yard setback line is located in the rear yard of the subject property. The entire existing dwelling is located forward of the required front yard setback requirement. All of proposed additions to the dwelling require a variance for a front yard setback less than required.

7. With the exception of a deck enlargement, which extends 1.5 feet closer to the front property line than the existing deck, all of the proposed additions are either aligned with the existing front setback of the dwelling, or are set back further than the existing front setback of the dwelling.

8. Testimony provided by the applicant's Architect clarified that the overall design of the dwelling would not exceed 2½ stories, and that no variance was requested. This clarification of the plans and the ordinance relating to the 2½ story limitation was accepted by the Board and a variance for exceeding 2½ stories was neither necessary nor granted.

9. The property is located in the Steep Slope Area. The applicant has started the process of preparing grading and drainage plans and provided some of that information to the Board at the hearing in response to concerns for the public. The grading and drainage plans are required to be reviewed and approved by the Board Engineer pursuant to Township ordinances prior to any construction.

10. The Board determined that the requested variance could be approved subject to the conditions specified below. The required front yard setback makes it impossible for the applicant to construct the proposed additions without variance relief. The proposed additions, with the exception of the deck extension at the front of the dwelling, would not further reduce the nonconforming front yard setback and would comply with all other zoning requirements; and

WHEREAS, the Board concluded, based upon the foregoing findings, 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 concluded, based upon the foregoing findings, 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 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 application was approved, subject to the following conditions:

1. The proposed deck extension at the front of the dwelling shall be limited to a maximum of 1.5 feet beyond the front yard setback of the existing deck.

2. The applicant shall submit the required grading and drainage plans to the Board Engineer for review and approval prior to construction. The applicant shall be responsible for required inspection fees and escrows.

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. Burr, seconded by Ms. Cockey, the following resolution memorializing the Board's decision on the application of **Chris & Krekamey Craig, 111 Elm Street** was adopted, as modified:

WHEREAS, Chris & Krekamey Craig, owners of property at 111 Elm Street, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to construct a detached garage in the rear yard of the property designated as Lot 24 in Block 3303 on the Township tax map and located in the R-2 Two-Family Zone; and

WHEREAS, the applicant requested variances from Montclair Code Section 347-52 to exceed the maximum permitted height of 15 feet; for a side yard setback of less than 6 feet from the southerly side property line; and for a rear yard setback of less than 6 feet; and

WHEREAS, the applicant submitted a property survey dated August 24, 2004 and plans prepared by CVisions, LLC dated August 8, 2011; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on October 19, 2011 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 property is located in the R-2 Two-Family Zone and contains a one-family dwelling. Variances are requested for the proposed construction of a detached garage in the rear yard.

2. A driveway exists on the southerly side of the dwelling that leads to the rear yard. The Sanborn Map depicts a previously existing detached garage in the rear yard, located very close to the property lines, in the same area as the proposed detached garage.

3. The a previously existing garage has been gone for years. The applicant has owned the subject property since 2003 and does not have knowledge as to when it was removed. The property survey depicts landscape type walls and a flagstone surface in the area where the previously existing garage was located. These structures are not part of the previously existing garage.

4. The proposed garage has a footprint measuring 28 feet in width by 24 feet in length. The minimum permitted side and rear yard setbacks for the garage are 6 feet. A side yard setback of 3 feet is proposed from the southerly side property line, and a rear yard setback of 3 feet is proposed from the rear property line.

5. The Board determined that the requested variances for the southerly side yard setback and the rear yard setback could be approved. It is evident that a nonconforming detached garage previously existed in the same area of the rear yard. The proposed side and rear setbacks are in keeping with the setback variances that are granted for detached garages on lots of a similar size and condition of the subject property. The requested setback variances can be approved, subject to a condition specified below, without negatively impacting adjoining properties.

6. The maximum permitted height for the proposed garage is 15 feet. A height of 20 feet is proposed, and shed dormers without windows are proposed on the front and rear of the proposed garage roof. The applicant's reasons for the proposed height are to allow for extra storage space in the garage and to have an architectural design that compliments the dwelling. During the hearing the applicant reduced the request for the height variance to 17.5 feet.

7. The Board determined that no variance could be granted for the height. Considering the variances being granted for the southerly side yard setback and the rear yard setback, a height greater than permitted would have a negative impact on adjoining properties, and the applicant's reasons for the height variance do not satisfy the required criteria for the granting of such a variance; and

WHEREAS, the Board concluded, based upon the foregoing findings regarding the variance requested to exceed the maximum permitted height, that the applicant did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and did not 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 concluded, based upon the foregoing findings regarding the variance requested to exceed the maximum permitted height, that the applicant did not prove that the purpose 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 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

WHEREAS, the Board concluded, based upon the foregoing findings regarding the variances requested for the southerly side yard setback and the rear yard setback, that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship 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 the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board concluded, based upon the foregoing findings regarding the variances requested for the southerly side yard setback and the rear yard setback, 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 variance requested to exceed the maximum permitted height is denied, and the variances requested for the southerly side yard setback and the rear yard setback are approved, subject to the following condition:

1. Storm water collected from the roof of the garage shall be directed away from the southerly side property line and the rear property line.

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. Burr, seconded by Ms. Cockey, the following resolution memorializing the Board's decision on the application of **David Koschik & Izumi Hara, 52 Wayside Place** was adopted, as modified:

WHEREAS, David Koschik & Izumi Hara, owners of property at 52 Wayside Place, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c, associated with a proposed addition to the easterly side of the dwelling and a proposed 3-car detached garage in the easterly yard of the property, designated as Lot 39 in Block 1102 on the Township tax map and located in the R-0 Mountainside Zone; and

WHEREAS, the applicant submitted a property survey dated 1991 and plans prepared by Rosen Group Architecture Design, dated September 26, 2011; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on October 19, 2011 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, for the proposed addition to the dwelling, the applicant has requested a variance from Montclair Code Section 347-33D for a rear yard setback less than permitted from the northerly property line. For the propose addition to the dwelling

it was determined at the public hearing that a variance was not required from Montclair Code Section 347-33B(2) for a southerly front yard setback less than the average of the 2 nearest dwelling to the east and south; and

WHEREAS, for the proposed detached garage, the applicant has requested a variances from Montclair Code Section 347-22A in that accessory buildings are not permitted in a side yard, and from Montclair Code Section 347-34A(2)(b) for a side yard setback less than permitted from the easterly side property line; and

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

1. The property is located in the R-0 Mountainside Zone on an irregularly shaped corner lot formed by a bend on Wayside Place. The lot contains a single family dwelling with an attached garage located at the ground level on the easterly wall of the dwelling. The lot measures 27,016 s.f. in area. The westerly Wayside Place frontage measures a total of 202.16 linear feet; the southerly Wayside frontage measures a total of 135.11 linear feet.

2. Variances are requested associated with a proposed addition to the easterly side of the dwelling and a proposed 3-car detached garage in the easterly yard of the property.

3. Based on the zoning ordinance, and due to the dimension of the 2 lot frontages, the rear yard, which is opposite the frontage of least dimension, is the northerly yard. The easterly yard is the side yard. The property has 2 front yards: westerly and southerly.

4. An addition is proposed on the easterly side of the dwelling. A small mudroom will be added at the northerly side of the dwelling under the roof of an existing roofed entrance. A smaller roofed entry way with steps would then be added in this area as well. The existing ground level garage on the easterly wall of the dwelling would be removed to accommodate the addition. The existing sloping grade level down to the existing garage would be raised and be more level as it surrounds the perimeter of the addition.

5. The proposed addition is approximately 79 feet from the southerly front property line. Testimony provided by the applicant's Architect indicated that due to the highly irregular street and lot pattern of the lots with frontage on the "dead end" section of Wayside Place, the average front yard setback of the 2 nearest dwellings with frontage in that section of Wayside Place should not be considered in determining the required southerly front yard setback for the subject property, and that no variance was requested. This was accepted by the Board and a variance for the southerly front yard setback was neither necessary nor granted.

6. The minimum permitted rear yard setback from the northerly property line is 43.9 feet, which is 30 percent of the lot depth as defined. The existing dwelling is already nonconforming with a rear setback of 18.5 feet to some portion of the existing stair/landing on the northerly side of the dwelling. The new entrance and stair in this area has a rear setback of 17.2 feet; the proposed addition is setback approximately 19 feet from the northerly property line, and a variance is requested.

7. A detached 3-car garage is proposed in the easterly yard of the property to replace the existing ground level garage under the dwelling. The footprint of the garage measures 39 feet 3 inches wide by 23 feet 3 inches long. The majority of the footprint of the proposed garage is located in what is the side yard of the property by definition, and variance is requested since accessory buildings are only permitted in rear yards.

8. The northerly property line is the rear property line. The proposed 13.2 foot setback from the detached garage complies with the 10 foot minimum permitted for accessory structures from the rear property line in the R-0 Zone. The easterly property line is the side line, where a minimum of 12 feet is permitted for accessory structures in the R-0 zone. A side yard setback of 10 feet is proposed and a variance is requested.

9. The Board determined that the requested variances could be approved. The variances associated with the application are largely technical in nature due to the atypical conditions of this corner lot and its dimensions. If not for the orientation of the side and rear yard determined by the dimensions of the frontages, the proposal would be compliant with zoning. The proposed addition and detached garage will not negatively affect any adjoining property, as there is a sufficient distance between the dwellings; and

WHEREAS, the Board concluded, based upon the foregoing findings, that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship 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 the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board concluded, based upon the foregoing findings, 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 application is approved; and

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

The Board briefly discussed the **2011 Draft Annual Report**. Chair Harrison suggested that the Planning Department send to each Board member the information that the recently formed Zoning Committee is currently discussing regarding proposed zoning amendments. The Board would continue the discussion at the December 14, 2011 regular meeting.

It was announced that the application of **Eric Carlson & Bridget Eklund, 303 Highland Ave**, which was carried to this hearing from the October 19, 2011 meeting, was withdrawn at the request of the applicant.

There were no public hearing scheduled for the remainder of the meeting. On motion by Ms. English, seconded by Mr. Burr the meeting was adjourned.