

MINUTES OF THE BOARD OF ADJUSTMENT
December 12, 2007

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

ABSENT: Mr. Haizel 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 Ms. Cockey, seconded by Mr. Susswein the **Minutes of the April 18, 2007** regular meeting were adopted, Vice Chair Fleischer and Mr. Rubenstein abstaining.

On motion by Vice Chair Fleischer, seconded by Ms. Cockey the **Minutes of the May 9, 2007** special meeting were adopted as modified, Chair Harrison, Ms. Cockey, and Ms. Holloway abstaining.

On motion by Mr. Susswein, seconded by Ms. English, the following Resolution memorializing the denial of the application of **Daniel & Yvonne Sargeant, 137 Squire Hill Road** was adopted, Ms. Cockey, Vice Chair Fleischer, Ms. Holloway, Mr. Rubenstein, and Mr. Whipple abstaining:

WHEREAS, Daniel and Yvonne Sargeant, owners of property at **137 Squire Hill Road**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A. 40:55D-70c to allow a front yard setback than required pursuant to **Montclair Code Section 347-45B(1)** in connection with a proposed addition of a front porch onto their single-family dwelling on property designated as Lot 11 in Block 4805 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, this matter came on to be heard at regular meetings of the Board of Adjustment held on October 17, 2007 and November 14, 2007, at which time it was established that notice was properly published and that property owners within 200 feet of the subject property had been properly served; and

WHEREAS, the applicants submitted a property survey prepared by Frederick C. Meola, dated January 20, 2005 and a plot plan, porch plans, and front yard setback measurements prepared by the applicants; 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 Residential Zone and contains a 2-story single-family dwelling with an attached garage

on the right-hand side of the dwelling. The subject property measures 58.50 feet in width along its frontage and contains 8,482 square feet in lot area.

2. The applicants propose to demolish the existing uncovered front entry stoop and steps and construct a roofed front porch measuring 30 feet wide by 8 feet deep. The steps for the proposed porch are incorporated into the footprint of the porch and do not project forward from the porch footprint.

3. The required front yard setback for the subject property is required to be no less than the average of the 3 nearest dwellings on the same side of the street, which includes 2 dwellings to the south and 1 dwelling to the north, which is the corner of Alexander Avenue and Squire Hill Road. The applicants indicated that he could not obtain property surveys for these properties, so field measurements of the front yard setbacks to the easterly edge of the sidewalk on Squire Hill Road were submitted.

4. The measurements provided by the applicants indicate that the average front setback of these 3 properties measures approximately 38.6 feet to the sidewalk, and that the proposed porch would have a front setback of approximately 27.5 feet. Based on this information, the proposed porch extends beyond the average front setback by approximately 11.1 feet and a variance is required. The Board took into consideration that by excluding the Squire Hill Road front yard setback of the corner property to the north, which has little relation to the Squire Hill Road streetscape, the proposed encroachment into the front yard setback is reduced to approximately 8.25 feet.

5. The Board determined that the requested variance could not be approved and concluded that the proposed encroachment into the front yard setback is significant since the existing dwellings on the east side of Squire Hill Road near the subject property presently have comparable front yard setbacks and that these dwellings, as well as many other dwellings on the street, do not have large roofed porches; and

WHEREAS, the Board, based on the foregoing findings 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 aforementioned findings concluded that the applicants did not prove that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment and would not cause substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of N.J.S.A. 40:55D-70c(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the within application of Daniel and Yvonne Sargeant is hereby denied; 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.

On motion by Mr. Susswein, seconded by Ms. English, the following Resolution memorializing the approval of the application of **Naomi and Bruce Serlen, 28 Carolin Road** was adopted, Ms. Cockey, Vice Chair Fleischer, Ms. Holloway, and Mr. Rubenstein, abstaining:

WHEREAS, **Naomi and Bruce Serlen**, owners of property at **28 Carolin Road**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to N.J.S.A. 40:55D-70c to allow a side yard setback less than required by **Montclair Code Section 347- 45C(1)**, and to allow a principal structure width greater than permitted by **Montclair Code Section 347-45C(4)** in connection with a proposed one-story addition onto their dwelling on property designated as Lot 13 in Block 3503 on the Tax Map of the Township of Montclair and located in the R-1 One-Family Zone; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on November 14, 2007, at which time it was established that notice was properly published and that property owners within 200 feet of the subject property had been properly served with notice; and

WHEREAS, the applicants submitted a property survey prepared by Gerald Capasso dated January 11, 1991, and a plot plan, partial floor plan, and elevations prepared by MBA Architects dated July 27, 2007; 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 single-family dwelling with a detached one-car garage. The property measures 60 feet in lot frontage width and 8,493 square feet in lot area.
2. A one-story addition, with a footprint measuring 8 feet 2 inches wide by 5 feet 4 inches long, is proposed at the easterly rear corner of the dwelling, and would contain part of an expanded and remodeled kitchen.
3. The existing dwelling has a nonconforming easterly side yard setback of 3.26 feet, whereas a minimum side yard setback of 6 feet is required. The proposed addition would align with the easterly side wall and rear wall of the dwelling and would also be set back approximately 3.26 feet from the easterly side property line.

4. The existing dwelling is also nonconforming in terms of width measuring approximately 47 feet in width, whereas the maximum width permitted is 39 feet, which is equal to 65 percent of the lot frontage width. The proposed addition will not increase the nonconforming building width.

5. The Board determined that the requested variances are acceptable given the fact that the proposed addition is one-story in height, aligns with the existing easterly side and rear walls of the dwelling, and is not visible from the street.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicants proved peculiar and exceptional practical difficulties and exceptional and undue hardship and that the variances could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to N.J.S.A. 40:55D-70c(1); and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the within application of Naomi and Bruce Serlen 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.

On motion by Mr. Susswein, seconded by Ms. English, the following Resolution memorializing the approval of the application of **Fenwick & Evelyn Davis-Grant, 227 Orange Road** was adopted as modified, Ms. Cockey, Vice Chair Fleischer, Ms. Holloway, and Mr. Rubenstein, abstaining:

WHEREAS, Fenwick and Evelyn Davis-Grant, owners of property at **227 Orange Road**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow a southerly side yard setback less than required pursuant to **Montclair Code Section 347-46A(2)(a)** and a rear yard setback less than required pursuant to **Montclair Code Section 347-46A(3)** in connection with the construction of a detached garage on property designated as Lot 31 in Block 3001 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on November 14, 2007 at which time it was established that notice was

properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the applicant submitted a property survey, dated July 17, 1990, and construction drawing of the proposed garage; 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-1 One Family Zone, measuring 66 feet in width and 7,000 square feet in area. The property contains a 2-story single-family dwelling with a detached 1-car garage in the southeasterly rear corner of the lot.

2. The applicants propose to demolish the existing detached 1-car garage and construct a new detached 1-car garage in its place. The existing garage footprint measures approximately 11 feet 9½ inches in width by 19 feet 8 inches in length and the proposed garage would have the same dimensions. At the hearing, the applicants amended their plan by indicating that a new foundation would be required.

3. The existing setbacks depicted on the property survey are proposed. Variances are requested in that side and rear setbacks of 6 feet are required, and a side yard setback of 2 feet is proposed from the southerly side property line, and a rear yard setback of 2.1 feet and 5.2 feet as measured from the rear corners of the garage, is proposed. A conforming height of 12.5 feet is proposed and all other zoning requirements are met for the new garage.

4. The Board determined that requested variances could be granted since the location and size of the proposed garage matches that of the garage that exists on the property. Additionally, due to the location of the existing dwelling on the property, the configuration of the existing driveway, and the shape and size of the property, there is no opportunity to conform or to provide larger setbacks without significantly impacting the usability of the garage and the rear yard.

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 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, 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 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 variance application of Fenwick and Evelyn Davis-Grant 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 Ms. English, the following Resolution memorializing the approval of the application of **Asha Guglani, 18 Mission Street** was adopted, Ms. Cockey, Vice Chair Fleischer, Ms. Holloway, and Mr. Rubenstein abstaining:

WHEREAS, **Asha Guglani**, owner of property at **18 Mission Street**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to N.J.S.A. 40:55D-70c to allow side yard setbacks less than required, a greater principal structure width than permitted, and a principal structure coverage greater than permitted, pursuant to **Montclair Code Section 347-51**, in connection with a proposed an addition and alteration at the rear of their dwelling on property designated as Lot 27 in Block 4107 on the Tax Map of the Township of Montclair and located in the R-2 Two-Family Zone; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on November 14, 2007, at which time it was established that notice was properly published and that property owners within 200 feet of the subject property had been properly served with notice; and

WHEREAS, the applicant submitted a property survey dated June 29, 1999 and a plot plan, floor plan, and elevations on one sheet prepared by LLG Architect dated July 6, 2007; 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-2 Two-Family Zone, and measures 25 feet in lot frontage width and 2,500 square feet in lot area. The subject property contains a 2½ story two-family dwelling.

2. On June 28, 2007, the owner of the subject property received a Stop Work Order from the Construction Official regarding a one-story addition at the rear of the dwelling constructed without a building permit. Upon filing the building permit, the applicant was informed that variances are required.

3. The applicant is seeking approval for variances to allow side yard setbacks less than required, a greater principal structure width than permitted, and a

principal structure coverage greater than permitted in connection with the one-story addition at the rear of the dwelling.

4. A two-story roofed porch existed at the rear of the dwelling as well as a steel bilco-type basement door, which were both removed to accommodate the one-story addition. The addition contains an enclosed rear entrance porch for the first floor only, and a covered basement entrance that replaces the bilco-type basement door.

5. The minimum side yard setbacks are required to be 6 feet and 10 feet. The existing dwelling has nonconforming side yard setbacks of 2.1 feet and 2.2 feet at its rear corners. The proposed addition aligns with the southerly side wall of the existing dwelling and also has a side yard setback of approximately 2.1 feet. The northerly wall of the addition is positioned at an angle, so that it connects to the rear corner of the dwelling, which is set back 2.2 feet from the northerly side line and the setback increase to 4.5 feet.

6. The maximum permitted principal structure width for the subject property is 16.25 feet. The existing dwelling is nonconforming in this regard having a width measuring approximately 21 feet. At its widest point, the proposed addition is as wide as the dwelling and a variance is requested. The addition will not increase the building width.

7. The principal building coverage prior to the construction was nonconforming at approximately 47.7 percent. The proposed addition increases the coverage by approximately 38 square feet, which increase the coverage by 1.52 percent to a total of 49.2 percent.

8. The Board determined that the increase in coverage is nominal and that the side setbacks and building width are in keeping with what exists on the property presently. The Board also found that the proposal would enhance the property by eliminating an overall bulkier two-story porch at the rear of the dwelling and replacing the bilco-type basement door with an improved basement doorway.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship 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 N.J.S.A. 40:55D-70c(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment and would not cause substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance 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 within application of Asha Guglani 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.

On motion by Mr. Susswein, seconded by Ms. English, the following Resolution memorializing the decision on the application of **Chris & Ruth Davis, 229 Orange Road** was adopted, Ms. Cockey, Vice Chair Fleischer, Ms. Holloway, and Mr. Rubenstein abstaining:

WHEREAS, Chris and Ruth Davis, owners of property at **229 Orange Road**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c in connection with the construction of a detached garage on a property designated as Lot 31 in Block 3001 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a property survey dated June 13, 1996, and architectural plans by Lineworks Architecture and Design, LLC, dated October 16, 2007 that depict 2 different designs for the proposed garage, labeled design 1 and 2; and

WHEREAS, the applicant sought variances as follows:

1. For garage design 1 and 2, a variance from **Montclair Code Section 347-46C** to permit an accessory structure between the dwelling and a street; and
2. For garage design 1 only, a variance from **Montclair Code Section 347-46A(1)** to permit an accessory structure height greater than 15 feet; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on November 14, 2007 at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

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

1. The subject property is a through lot with frontages of 69 feet along Orange Road and 55 feet along Elm Street. The subject property measures 12,847 square feet in area, is located in the R-1 One Family Zone, and contains a single-family dwelling and a one-car detached garage accessed by a driveway from Elm Street.
2. As a through lot, the subject property has 2 front yards, one of which is located between the dwelling and Elm Street. An existing detached garage located between the dwelling and Elm Street is to be demolished, and a new detached 2-car

garage is proposed to be located in the easterly front yard between the dwelling and Elm Street, which requires a variance.

3. The applicant has proposed two garage designs. Design 1 has a footprint of 28.5 feet wide by 24 feet long and a height of 20 feet 10 inches to the ridge of the roof to accommodate second floor storage. The proposed height in design 1 requires a variance. Design 2 conforms to the 15-foot height limit, has the storage space on the side of the garage, and has a footprint measuring 35 feet wide by 22 feet long.

4. The Board determined that variance requested to locate an accessory structure between the dwelling and Elm Street could be granted since the property is a through lot, a detached garage presently exists between the dwelling and Elm Street, and there is no other location on the property for the garage.

5. The Board also determined that the variance requested to exceed the accessory structure height limit of 15 feet could not be approved. The Board found that the proposed height of the garage would negatively impact the adjoining property to the south, which is also a through lot and contains a detached garage that conforms to the height limit, and that the proposed height of the garage is not in keeping with intent of the purpose of the zoning ordinance limiting the height of accessory structures; and

WHEREAS, the Board, based on the foregoing findings regarding the variance requested for accessory structure height, concluded that the applicant did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and that the variance could not be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to N.J.S.A. 40:55D-70c(1); and

WHEREAS, the Board, based on the aforementioned findings regarding the variance requested for accessory structure height, concluded that the applicant did not prove that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment and would not cause substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of N.J.S.A. 40:55D-70c(2); and

WHEREAS, the Board, based on the foregoing findings regarding the variance requested to locate an accessory structure between the dwelling and Elm Street, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship 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 N.J.S.A. 40:55D-70c(1); and

WHEREAS, the Board, based on the aforementioned findings regarding the variance requested to locate an accessory structure between the dwelling and Elm Street, concluded that the applicant proved that the purposes of the Municipal Land Use

Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment and would not cause substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of N.J.S.A. 40:55D-70c(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the variance requested for accessory structure height is denied, and the variance requested to locate an accessory structure between the dwelling and Elm Street 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.

On motion by Mr. Whipple, seconded by Mr. Susswein, the **2008 Schedule of Regular Meetings** was adopted as modified.

The Board discussed the requested adjournment of the application of **Wallwood Gardens, Inc., 400 Orange Road** to the February 20, 2008 regular meeting of the Board. After some discussion with Mr. Sullivan regarding concerns over the length of time since public notice was given, a motion was made by Ms. English, seconded by Mr. Fleischer, to grant the requested adjournment to February 20, 2008, and that any further adjournment beyond February 20, 2008 would require a new public notice for the application. The Board was granted an extension of time on the application.

The application of **Craftco, 14 North Willow Street** was adjourned to the February 20, 2008 regular meeting of the Board, at the applicant's request. No further notice would be given. The Board was granted an extension of time on the application.

Chair Harrison called the variance application of **Wendell & Ellen Maddrey, 19 Cornell Way**. The applicants and Paul Sionas, Architect, were sworn and described the application. The property is an interior lot located in the R-0(a) One-Family Zone and contains a 2-story single-family dwelling with an attached garage. The property measures 100 feet in width along its curved frontage and contains 16,234 square feet in lot area. The existing unroofed front stoop and steps would be demolished and a new roofed front stoop and steps would be constructed. The existing unroofed entry stoop measures 8'-1³/₄" wide by 5' deep. The proposed roofed stoop is also 5' deep, but is wider measuring 10'-5" wide. A wood framed roof supported by columns is proposed over the new stoop. The required front setback in the R-0(a) Zone north of Bloomfield Avenue is 35 feet, unless the average of nearby dwellings is greater. The average front yard setback of the 4 nearest dwellings, 2 on either side of the subject property, is 40'-7", which is the required front yard setback for the subject property. The existing dwelling has a conforming front yard setback of 40'-8" at its closest point, measured to the front wall of the dwelling excluding the unroofed front stoop, which is located 35'-11" from the front property line. The proposed roofed front stoop would also be set back 35'-11" from the front property line and a variance is requested.

Marked into evidence was:

A-1 Photograph of the dwelling on the subject property

The Board questioned the applicants. Chair Harrison called for questions and comments from the public. None were offered. The Board discussed the application. The Board determined that the variance requested for the front yard setback of proposed roofed front entry stoop could be granted since a minimal intrusion into the required setback is proposed and most of the dwellings in the neighborhood have some type covered front entrance. On motion by Mr. Fleischer, seconded by Ms. Holloway, the application was approved.

Chair Harrison called the variance application of **Gary Demry, 34 Fulton Street**. The applicant was sworn and described the application. The property contains a 2-story two-family dwelling with no existing driveway or off-street parking area. The property measures 50 feet in width and contains 4,945 square feet in lot area. A new driveway is proposed on the southerly side of the dwelling that would lead to a parking area large enough for 2 vehicles in the rear yard. The dwelling has a southerly side yard setback measuring 9.6 feet at its front corner and 9.1 feet at its rear corner. The proposed driveway would be set back 6 inches from the southerly side property line and a width varying from 9.1 feet to 8.6 feet as it passes through the southerly side yard of the dwelling, both of which require variances. The proposed driveway setback and width would otherwise conform to the zoning requirements at all other areas of the property.

The Board questioned the applicant. Chair Harrison called for questions and comments from the public. None were offered. The Board discussed the application. Based on the location of the dwelling on the lot, the requested variances for a deficient driveway width and driveway setback are justified, and the proposed driveway width would allow for viable and effective ingress and egress of vehicles accessing the parking area. The changes proposed to the property, subject to certain modifications imposed by the Board, represent an aesthetic and functional improvement. On motion by Mr. Fleischer, seconded by Ms. Cockey, the application was approved, subject to the following conditions:

1. The southerly side and rear setbacks of the parking area shall be landscaped with shrubs.
2. Landscaping and/or fencing shall be provided along the right side of the driveway in the front yard in order to deter the informal front yard parking that has existed on the property.

Chair Harrison called the variance application of **John P. Samaroo, 61 Montague Place**. The applicant was sworn and described the application. The proposed driveway is to be partially located on the adjoining property to the east at 57 Montague Place. The applicant submitted property surveys for 61 Montague Place and 57 Montague Place, a plot plan depicting the proposed driveway and parking area, a

copy of the easement relating to the proposed driveway, dated September 10, 1946, and a signed consent to the application from the owner of 57 Montague Place. Mr. Sullivan briefly explained the legal issue relating to an application such as this one. Vinnette McKenzie, owner of 57 Montague Place was present and was sworn. The Board had no questions for Ms. McKenzie.

A paved driveway is proposed between the dwellings that would provide access to a proposed parking area the rear of the applicant's property at 61 Montague Place. The easement submitted with the application indicates that 61 Montague Place is entitled to use 1.5 feet of the land on 57 Montague Place for a driveway. The easterly side yard of the subject property, where the driveway is proposed, measures 5.81 feet wide. That width combined with the 1.5 feet described in the easement indicates that the proposed driveway would measure a minimum of 7.31 feet wide as it passes between the dwellings. Although width of the proposed driveway is very narrow, it would allow for ingress and egress of smaller vehicles accessing the proposed parking area and is similar to many other existing driveways in the neighborhood. The applicant also described the problems associated with any potential driveway on the westerly side of his dwelling, which would require easements he has not been able to secure. The applicant also described his request to expand a portion of the driveway to allow a front yard parking space.

The Board questioned the applicant. Chair Harrison called for questions and comments from the public. Robert McCullough, 264 Claremont Avenue, was sworn and stated his concerns relating to drainage. The Board discussed the application. The driveway easement allows the applicant to use 1.5 feet of 57 Montague Place for the proposed driveway, therefore strict application of the ordinance requiring a setback of 1-foot for the driveway under the circumstances would be impractical. The Board offered suggestions to the applicant, which included maintaining the privet hedge that exists along the easterly side line in the front yard of 57 Montague Place, and consulting with owner of 57 Montague Place on whether a bollard should be used in order to protect the front porch from potential damage. No justification for the variance requested for front yard parking was provided, particularly considering the fact that a rear yard parking area is proposed as part of the application. On motion by Mr. Susswein, seconded by Ms. Cockey, the variance requested for front yard parking was denied and the variances requested for driveway width and setback were approved, subject to the following condition:

1. The side and rear setbacks of the parking area shall be landscaped with shrubs.

Chair Harrison called the variance application of **Bellclaire II, LLC, 18 Bell Street**. David Owen, Esq. appeared as attorney for the applicant and described the application. He called William Hamilton, who was sworn and stated his qualifications as a Professional Planner and Landscape Architect. He described the application. The property is a small interior lot located between an apartment building to the south and a commercial parking lot to the north. The property lies at the north edge of the C-1 Zone and is proximate to the R-2, R-3 and OR-3 Zones. The property presently contains a

three-family dwelling which is not in good condition and which does not have any on-site parking. The applicant proposes to remove the existing three-family dwelling and replace it with a new two-family dwelling. Each new dwelling unit will have two bedrooms and two and one half baths. Each unit will have two garaged parking spaces. Variances are requested to allow a two-family dwelling, to permit a lot area of 2,702 square feet where a minimum of 20,000 square feet is required, to permit a lot width of 30 feet where a minimum of 100 feet is required, to allow grade level parking under the two-family dwelling, and to allow tandem parking spaces. Variances are also requested for the front yard setback, front yard parking, parking space setback from side property lines, and principal building setback from side property lines.

Marked into evidence were:

- A-1 Aerial photograph, dated December 10, 2007
- A-2 Site plan, with color added, on a board, dated September 14, 2007

The Board had numerous questions for Mr. Hamilton. Mr. Owen also called Tom Brennan, who was sworn and stated his qualifications as an Architect, to assist in answering questions relating to the design of the building and the site. He also described the plans. The Board questioned Mr. Brennan. Chair Harrison called for questions and comments from the public. None were offered. Mr. Owen requested that the application be adjourned to the next regular meeting of the Board so that the applicant could consider the various concerns raised by the Board with respect to the design of the site and the building. Chair Harrison announced that the application would be continued at the January 16, 2008 regular meeting of the Board. No further notice would be given.

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