



Township of Montclair

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MONTCLAIR ZONING BOARD OF ADJUSTMENT

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MINUTES OF THE BOARD OF ADJUSTMENT December 14, 2011

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

ABSENT: Mr. Sullivan, Esq., 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 November 16, 2011** regular meeting were adopted, Mr. Fleischer, Ms. Holloway, and Mr. Whipple abstaining. The Board discussed the **2012 Schedule of Regular Meetings**. On motion by Mr. Whipple, seconded by Mr. Fleischer, the 2012 Schedule of Regular Meetings was adopted.

The Board discussed the proposal from Mr. Sullivan as **Board Attorney for 2012**. On motion by Mr. Fleischer, seconded by Mr. Whipple, the following Resolution appointing Mr. Sullivan as Board Attorney at the indicated rate for the 2012 year was unanimously approved:

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-71b, provides that the Board may employ legal counsel, experts and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain an attorney to provide legal services including, but not limited to advice and consultation, attendance at meetings, preparation of documents and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

WHEREAS, the appointment of the attorney may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because legal services are rendered by persons authorized by law to practice their recognized profession, whose practice is registered by law and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of competitive bid; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that it does hereby appoint Michael D. Sullivan, Esq. as Board Attorney to serve from January 1, 2012 to December 31, 2012 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the officers of the Board of Adjustment are hereby authorized and directed to sign an Agreement in connection with such services, which agreement shall be on file with the Township Clerk; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Township Clerk.

The Board discussed the proposal from Mr. Watkinson as **Board Engineer for 2012**. On motion by Mr. Fleischer, seconded by Mr. Whipple, the following Resolution appointing Mr. Watkinson as Board Engineer at the indicated rate for the 2012 year was unanimously approved:

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-71b, provides that the Board may employ legal counsel, experts and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain an engineer to provide engineering services including, but not limited to advice and consultation, attendance at meetings, preparation of reports and other services as may be required from time to time; and

WHEREAS, the appointment of the engineer may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because engineering services are rendered by persons authorized by law to practice their recognized profession, whose practice is registered by law and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of competitive bid.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that it does hereby appoint W. Thomas Watkinson as Board Engineer to serve from January 1, 2012 to December 31, 2012 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the officers of the Board of Adjustment are hereby authorized and directed to sign an Agreement in connection with such services, which agreement shall be on file with the Township Clerk; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Township Clerk.

It was announced that at the request of the applicant, the site plan application of **Wallwood Gardens, Inc, 400 Orange Road** was postponed until the March 21, 2012 meeting of the Board. The Board was granted an extension of time and the applicant would be required to complete a full public notice for that pending date.

It was announced that at the request of the applicants, the selection of a meeting date to continue the application of **Omnipoint Communications, Inc., 153 Park Street**, and the selection of a meeting date to commence the application of **T-Mobile Northeast, LLC, 118 Watchung Avenue**, were each postponed to the February 14, 2012 regular meeting of the Board. The Board was granted an extension of time.

It was announced that the application of **Michael Dyer, 67 Greenwood Avenue** for an Appeal of a Decision of a Zoning Administrative Officer, was postponed until the January 18, 2012 regular meeting at the request of the applicant. The applicant was ill and could not attend this hearing.

The Board discussed the **2011 Draft Annual Report**. The only section of the 2011 Report that was incomplete was the Recommended Zoning Changes or Amendments. Chair Harrison stated that a recently formed Zoning Committee consisting of certain members of the Board of Adjustment, Planning Board, and the Planning Department staff, has been discussing proposed zoning amendments, including the proposed amendments from the Board's 2010 Annual Report. The Board stated that the 2011 Annual Report should restate the recommended zoning amendments from 2010.

The Board also stated that the 2011 Annual Report should also include additional recommended zoning amendments. The zoning ordinances for the single family and two family zone districts relating to the principal structure width, the number of stories, and the regulations for corner lots should be reviewed further and potentially modified in order to achieve the desired overall goal of the ordinances while eliminating some potentially unnecessary variances. On motion by Mr. Fleischer, seconded by Ms Cockey, the 2011 Annual Report was adopted as modified.

There were no public hearing scheduled for the remainder of the meeting. Prior to adjourning the hearing, the Board acknowledged that this was the final meeting for longstanding Board members Harvey Susswein, Sharon Cockey, and Holly English. Chair Harrison thanked those Board members for their years of service and contributions to the Board. On motion by Mr. Whipple, seconded by Mr. Burr the meeting was adjourned.