

**MINUTES OF THE BOARD OF ADJUSTMENT
JANUARY 16, 2002**

PRESENT: Chair Harrison, Mr. Chapman, Ms. Costello, Vice Chair Fleischer, Mr. Gallardo, Mr. Haizel, Ms. Rock-Bailey, Mr. Susswein; also, Michael Sullivan, Esq., Mr. Sammet, Secretary, Ms. Kadus, Assistant Secretary, and Mr. Charreun, Planning Technician

ABSENT: Ms. Brooks, Mr. Gallardo, and Mr. Susswein

Secretary Kadus 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 Ms. Chapman, the **Minutes of the December 12, 2001** regular meeting were adopted as modified.

On motion by Mr. Fleischer, seconded by Mr. Haizel, Mr. Harrison was re-elected as Chair, Mr. Harrison abstaining.

On motion by Mr. Chapman, seconded by Ms. Costello, Mr. Fleischer was re-elected as Vice Chair, Mr. Fleischer abstaining.

On motion by Mr. Fleischer, seconded by Mr. Chapman, Mr. Sammet was elected as Secretary.

On motion by Ms. Rock-Bailey, seconded by Mr. Fleischer, Ms. Kadus was elected as Assistant Secretary.

On motion by Mr. Fleischer, seconded by Ms. Costello, Mr. Sullivan was re-appointed as Board Attorney at his newly specified rate for the 2002 year.

On motion by Mr. Chapman, seconded by Ms. Rock-Bailey, Mr. Watkinson was re-appointed as Board Engineer at the indicated rate for the 2002 year.

On motion by Mr. Fleischer, seconded by Mr. Chapman, the following Resolution memorializing the denial of the site plan and variance application of **Pasquale Gangala, 151 Pine Street** was adopted as modified:

WHEREAS, Pasquale Gangala, as owner, did make application to the Board of Adjustment of the Township of Montclair to demolish two existing garages and construct a new garage to store vehicles and trailers used in conjunction with a landscaping business on property designated as Lot 27 in Block 4206 on the Township tax map and located in the R-2 Two Family Residential Zone; and

WHEREAS, the applicant sought site plan approval and relief as follows:

1. A variance pursuant to *N.J.S.A. 40:55D-70d* as storage of commercial vehicles is not a permitted use in the R-2 Zone pursuant to Montclair Code Sections 347-49.
2. A variance pursuant to *N.J.S.A. 40:55D-70c* to allow off-street parking for more than five vehicles contrary to Montclair Code Section 347-49C.
3. An exception to permit the proposed parking spaces to measure less than 9 feet by 19 feet pursuant to Montclair Code Section 281-9C.
4. An exception to permit an off-street parking area setback of less than 4 feet as required by Montclair Code Section 281-9G.
5. An exception for insufficient screening of parking areas as required by Montclair Code Section 281-9F.

WHEREAS, the applicant submitted a site plan and elevations prepared by Nicholas J. Netta, Architect, sheet AR-1 dated August 18, 2001 revised November 18, 2001; sheet AR-2 dated August 18, 2001 as well as a planting plan prepared by Jamie Chase dated November 30, 2001; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on December 12, 2001, 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 contains an existing two family dwelling. The applicant proposes to demolish two existing garages and construct a new garage to store vehicles and trailers used in conjunction with the property owner's landscaping business. At the public hearing, the applicant reduced the size of the proposed garage to 34 feet by 30 feet.
2. The applicant's planning witness opined that approval of this application would advance *N.J.S.A. 40:55D-2a*. The primary basis for this conclusion was the planner's belief the storage of commercial vehicles was a preexisting nonconforming use. The applicant failed to offer any proof that such use was a preexisting nonconforming use. In fact, the testimony established that the storage of commercial vehicles on the property began approximately one year ago when the property owner purchased the property. The Board finds the applicant failed to offer any proof that this application would "promote the public health, safety, morals and general welfare".

3. The applicant's planning witness also argued that approval of this application would advance *N.J.S.A. 40:55D-2c* and *g*. To the contrary, the Board finds the application does not provide sufficient space in an appropriate location for the proposed use and does not provide adequate light, air and open space.

4. The applicant's planning witness asserted that the proposed planting plan would "promote a desirable visual environment" and thus advance the purposes of the Municipal Land Use Law. The Board finds that the addition of some plantings as proposed does not constitute the requisite "special reasons" required for the granting of this application.

5. The proposed use is contrary to the intent and purpose of the zone plan and master plan which seeks to protect existing residential neighborhoods.

6. The proposed use would result in increased noise and would be injurious to the existing neighborhood.

7. The applicant failed to offer any proofs with respect to the variance to permit more than five parking spaces on the property.

8. Based upon the board's particular knowledge of local conditions, the proposed development is inconsistent with the development of the neighborhood and will substantially impair the intent and purpose of the zone plan and zoning ordinance.

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 would not substantially impair the intent and purpose of the zone plan and zoning ordinance; and

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

WHEREAS, the Board, based on the aforementioned findings, 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 failed to prove that the benefits of the deviation would substantially outweigh any detriment and failed to prove that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to 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 Pasquale Gangala, for variances to allow storage of commercial vehicles and off-street parking, site plan approval and exceptions 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. Chapman, seconded by Ms. Costello, the following Resolution memorializing the denial of the variance application of **Frank Curto, 51 Walnut Street** was adopted, Ms. Rock-Bailey, abstaining:

WHEREAS, Frank Curto, as owner, did make application to the Board of Adjustment of the Township of Montclair to convert a two-family dwelling into a three-family dwelling and construct a third floor addition at the rear of the building on property designated as Lot 15 in Block 4205 on the Township tax map and located in the R-2 Two Family Residential Zone; and

WHEREAS, the applicant sought site plan approval as well as a variance pursuant to *N.J.S.A. 40:55D-70d* as a three-family dwelling is not a permitted use in the R-2 Zone pursuant to Montclair Code Sections 347-47; and

WHEREAS, the applicant submitted a plot plan, floor plans and elevations prepared by Steven Corso, Architect, LLC, Sheet A-1 dated August 27, 2001 revised October 15, 2001; Sheet A-2 dated August 27, 2001; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on December 12, 2001, 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 property contains a three-story residential building and a one-story four bay garage structure with an attached two-story storage structure at the rear of the property and parking area for seven vehicles. The application contemplates a third floor addition at the rear of the building which would create headroom for the existing staircase leading up to the third floor in connection with the new dwelling unit.

2. The applicant failed to offer sufficient proof that the within application would advance any of the purposes of the Municipal Land Use Law.

3. The subject property received a use variance by resolution adopted on

October 16, 1996 to permit the garage storage of not more than three commercial vehicles. Approval of an additional dwelling unit would further increase the nonconformity of the property and result in an over utilization of the site.

4. The proposed additional dwelling unit is contrary to the intent and purpose of the zone plan and master plan which seeks to protect the character of existing residential neighborhoods.

5. Based upon the board's particular knowledge of local conditions, the proposed development is inconsistent with the development of the neighborhood and will substantially impair the intent and purpose of the zone plan and zoning ordinance.

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 would not substantially impair the intent and purpose of the zone plan and zoning ordinance; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Frank Curto, for site plan approval and variance 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. Haizel, the following Resolution memorializing the approval of the variance application of **Montclair Cooperative School, 65 Chestnut Street**, was adopted:

WHEREAS, Montclair Cooperative School, owner property at **65 Chestnut Street**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70c to allow a fence height greater than that required pursuant to **Montclair Code Section 347-27E** in connection with the installation of a fence on property designated as Lot 11 in Block 3302 on the Township Tax Map and located in the R-2 Two-Family Zone; and

WHEREAS, the applicants submitted a property survey prepared by Bertin Engineering Associates, Inc., dated June 27, 1997 and a site plan prepared by The Mylan Architectural Group, dated June 8, 2001, that depicts the location of the proposed fence; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on December 12, 2001 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 corner lot at the intersection of Chestnut Street and Forest Street and contains a 2½-story brick building and a 1-story masonry building, both used as school buildings.
2. The applicant's proposal is to install 5½-foot high fencing in the triangular area at the northeast corner of the lot, 2 sides of which are formed by 25-foot lengths of the intersecting street lines of Chestnut and Forest Streets. This fence is consistent with a new 5½-foot high fence recently installed elsewhere on the property.
3. The applicant wishes to retain the multifunctional climber in the playground near the corner of the property where fencing is proposed. The 5½-foot height of the proposed fence will serve to keep the children on the school property.
4. This particular intersection is at the crest of a hill, which makes visibility difficult. Therefore, the purpose of protecting sight triangles at this intersection in order to enhance public safety counterbalances the beneficial use of a school.
5. The proposed wrought iron fencing would be an improvement over the existing chain link fence in the northeast corner of the lot, and there is space in this area of the property to shift the proposed location of the fence in order to create a smaller but effective sight triangle at the intersection.

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

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants did prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the variance application of Montclair Cooperative School is hereby approved, subject to the following conditions:

1. The fence to be installed at the northeast corner of the property shall

be set back from the street lines forming the corner of Chestnut and Forest Streets, a distance which is to be determined by a 6-foot separation between the fence and the existing multifunctional climber.

2. All landscaping located within the triangular area at the northeast corner of the lot, 2 sides of which are formed by 25-foot lengths of the intersecting street lines of Chestnut and Forest Streets shall be maintained at a maximum height of 2½-feet.

3. The fence to be placed at the corner of the property shall be an open fence for which the applicant shall submit design specifications.

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.

Secretary Kadus announced the withdrawal of the variance application of **David and Mary Ellen Gray, 171 Wildwood Avenue** without prejudice.

Secretary Kadus announced the postponement of the site plan and variance application of **Union Congregational Church, 169 and 176 Cooper Avenue** to the Board's February 6, 2002 special meeting and that no further notice will be given.

Chair Harrison called the variance application of **Rising Mount Zion Church, 27 Monroe Street**. Ronald Istivan, Esq., appeared as attorney for the applicant. Mr. Istivan stated that the applicant is seeking a front yard variance to permit the construction of an addition to the front of the church building to be used as an enclosed wheelchair/casket lift.

Mr. Istivan called Tonu Vanderer, Architect, who was sworn. Mr. Vanderer described his qualifications and stated that he has designed various handicapped ramps, elevators, and other similar "people movers". He stated that he has examined the church property.

Marked into evidence was:

- A-1 Set of plans, prepared by Tonu Vanderer, Architect, revised July 2001
- A-2 Photo-board of surrounding properties
- A-3 Photo-board of the applicant's church building

Mr. Vanderer stated the church requires the wheelchair/casket lift due to the particularly large number of steps at the front entrance. He stated that the footprint of the proposed lift enclosure measures 9 feet by 10 feet and that the freehand drawing

depicted on page S-0 of the site plans is an accurate portrayal of the church after the construction of the lift enclosure.

Mr. Vanderer stated that the width of the lift enclosure adds to the aesthetic value of the addition and is necessary to house the mechanical space. He stated that the proposed roof for the enclosure would extend to also cover the front entrance, which is currently uncovered. He also stated that the ridge of the new roof would be 7 feet below the existing roof ridge, and that the roof would have an 8-inch overhang with a front yard setback of 10 feet 8 inches.

Mr. Vanderer stated that the proposed lift enclosure would not encroach further than most of the buildings on Monroe Street, including the buildings on the adjoining properties, which presently have front yard setbacks of approximately 5 to 6 feet. Mr. Vanderer also stated that the proposed enclosed lift would be an enhancement to the church property and to the neighborhood because of its barrier-free design.

Mr. Vanderer stated that a 6-foot wide drop curb is proposed to provide access to the lift from the street. He stated that the current distance from the curb to the church wall is 33 feet and 6 inches, and that the distance from the curb to the wall of the proposed lift enclosure would be approximately 21 feet. Mr. Vanderer stated that there is one door proposed to act as the entry to the lift from grade level and that the stained glass window currently in the church wall will be relocated and placed in the wall of the lift enclosure.

Mr. Vanderer stated that the proposed lift enclosure would not block any views, that it would functionally serve a good purpose, and that the architectural features of the lift enclosure add aesthetic value to the church building.

The Board questioned Mr. Vanderer.

Mr. Vanderer stated that the proposed front yard location of the lift enclosure was decided upon because of the existing conditions inside the church building, as well as the existing outside conditions on the property. He stated that the proposed location of the lift facilitates the ingress and egress of the churchgoers.

Chair Harrison called for questions from the public. None were offered.

Mr. Istivan called Elizabeth Campbell, Pastor at Rising Mount Zion Church, who was sworn. Ms. Campbell stated that the pulpit takes up the entire rear portion of the church building, which prevents the addition of the lift enclosure to the rear of the church.

Chair Harrison called for questions from the Board.

Chair Harrison called for questions from the public. None were offered.

Mr. Istivan called Holly Allston, Licensed Realtor with Weichert Realtors of West Orange, who was sworn. Ms. Allston stated that she is familiar with Montclair properties. She stated that the proposed lift enclosure would not have an adverse impact on property values in the surrounding area.

Chair Harrison called for questions from the Board.

Chair Harrison called for questions from the public. None were offered.

Mr. Istivan called Calvin Jackson, Deacon at Rising Mount Zion Church. Mr. Jackson stated that he is the Chair of the church's Lift Committee and that this Committee has explored the options for incorporating a lift that would have the least negative impact. Mr. Jackson stated that a lift platform which opens into the church vestibule would inhibit the ingress and egress of churchgoers. He continued by stating that although the proposed location would require the removal of several pews within the church, it is still the best location for the lift.

Mr. Jackson stated that the main entrance stairway contains 17 steps, which keeps many elderly and disabled people away from church services. Mr. Jackson stated that presently, wheelchair-bound individuals attending any church function and the caskets for funeral services must be carried up the stairs by a group of people, which has been difficult and dangerous. He continued by stating that the roof which is proposed to cover the lift and the main entrance would improve the movement of churchgoers through the main entrance by providing cover during foul weather and preventing the seepage of water into the doorway, which has become a hazard.

The Board questioned the Mr. Jackson.

Mr. Jackson stated that the slope in grading from the church driveway to the proposed lift necessitates a drop curb at the street in order to provide for safe movement of individuals in wheelchairs and gurneys carrying caskets.

Ms. Campbell, still under oath, stated that the drop curb would only be used for wheelchair and gurney access.

Chair Harrison called for questions from the public. None were offered.

Chair Harrison called for public comment. None were offered.

Mr. Istivan summarized the application.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Haizel, it was resolved to approve the variance request, subject to the following conditions:

1. The addition shall match the color and stucco of the existing church building.
2. The applicant may provide a drop curb at the street provided it does not allow for vehicular access.

Chair Harrison called the site plan and variance application of **Senior Care and Activities Center, 105 Walnut Street**. Robert Gaccione, Esq. appeared as attorney for the applicant. Mr. Gaccione described the application and the requested variances. Mr. Gaccione called Dennis Mylan, Architect, who was sworn. Mr. Mylan described the existing conditions on the property.

Marked into evidence was:

- A-1 Site Plan with color, prepared by Mylan Architectural Group, dated December, 12, 2001, on a board
- A-2 Photo-board of the site and surrounding properties
- A-3 Color Rendering of the East Elevation of the proposed building, on a board

Mr. Mylan described the zoning classification of the site, as well as the size and unusual shape of the property. Mr. Mylan stated that an easement presently exists on the Walnut Avenue driveway of the property, which gives the owner of the corner property, Mercury Volt, vehicular access to the rear of their building. Mr. Mylan described the industrial character of existing buildings on the property. He also stated that the surrounding properties include a firehouse, a bus depot, and a church. Mr. Mylan continued by stating that the proposed one-story building would be located at the rear of the lot, in the same area as the existing large industrial building and that the new building would be completely barrier free.

Mr. Mylan stated that the proposed facility would contain a state-licensed, non-profit senior activity center. He stated that the facility would total 16,550 square feet and would service up to 150 patients. He also stated that 95% of these patients would be transported to the facility by van and that the remainder would be dropped off by relatives or friends.

Mr. Mylan stated that the property has a front yard on Walnut Street and a front yard on Greenwood Avenue. He also stated that the existing building on the property has a 0-foot rear yard setback and that the proposed building would have a 1-foot rear yard setback. Mr. Mylan continued by stating that garages located on adjacent properties abut the rear yard of the applicant's property.

Mr. Mylan stated that facade of the proposed building would be stone at the base, stucco above, and a shingle roof. He stated that a large skylight is to be

placed in the roof over the administrative area of the building and that a canopy would be located on the front of the building facing Greenwood Avenue which would extend along 60% of the total frontage of the lot. Mr. Mylan also stated that the west and south elevations of the building would have no windows, doors, or openings because these walls are proposed to be located at the property line. Mr. Mylan continued by describing the proposed floor plans for the facility, the interior open-air courtyard, and the function of various rooms in the facility.

Mr. Mylan described the landscaping plans. He stated that junipers would be planted at the east side of the parking area and that the entire perimeter of the parking area would be landscaped. Mr. Mylan described the lighting plans. He stated that 175-watt metal halide fixtures would be utilized and placed on timers to shut off at the end of the workday. He stated that wall-mounted lights would be placed on the columns that support the canopy.

Mr. Mylan described the proposed parking area. He stated that the parking area would contain a total of 25 spaces, which includes 17 car stalls and 8 van stalls. He further stated that the 17 car stalls would include 10 standard spaces, 6 compact vehicle spaces, and 1 barrier-free space. Mr. Mylan stated that the number of van stalls would be adequate for the facility. Mr. Mylan continued by stating that 4 of the 25 proposed parking spaces are located in the required front yard of the property along Greenwood Avenue.

Mr. Mylan described the circulation and access of the parking area. He stated that the access supplied to the neighbor's garage by the easement on the Walnut Avenue driveway would be improved by keeping the Walnut Avenue driveway open and allowing the neighbor's vehicle to exit through the Greenwood Avenue driveway.

Mr. Mylan described the proposed signage for the facility. He stated that the 2 proposed wall-mounted signs do not exceed the square footage limit on their respective walls. He also stated that square-shaped logo for the facility requires that the sign exceed the maximum permitted height of 24 inches in order to be large enough to read from the street. Mr. Mylan continued by stating that the canopy mounted on the easterly wall of the proposed structure prevents the mounting of the sign within the required sign band location on that wall.

Mr. Mylan stated that although the proposed use is not permitted in any zone of the Township, it is very similar to many permitted uses and that the C-2 zone is the most suitable zone for the proposed use. He also stated that proposed facility would provide an aesthetic improvement to the neighborhood and bring order to the site. He continued by stating that the current site has no landscaping and no curbing at the street line and that the proposed facility would result in a 10 percent reduction in lot coverage.

Mr. Mylan addressed the Board Engineer's report dated January 3, 2002. He stated that the applicants would comply with items 1 through 4, items 6 through 10,

and item 13 of that report. He stated that it would not be necessary to comply with item 5 of the report because it would not benefit the site. Mr. Mylan addressed item 11 of the report and stated that granite block curbing is proposed on the site and concrete curbing is proposed for off-site improvements, although the applicant would provide granite block curbing where recommended. Mr. Mylan continued by addressing item 12 of the report and stated that the applicant is a non-profit entity and should be made responsible to do the curbing for the adjacent property.

The Board questioned Mr. Mylan.

Mr. Mylan stated that the proposed used should not be classified as a commercial recreation center and that virtually all of the patients of the facility would be dropped off at the site. He also stated that parking on the site would be mostly used by the employees of the facility. He continued by stating that the proposed building would contain 2500 square feet of office space, which would require only 10 parking spaces on the site.

Mr. Gaccione stated that easement on the site for DeCamp Bus Lines has been fenced off and unused and that DeCamp has agreed to relinquish that easement.

Chair Harrison called for question from the public.

Una Delaney, of 50 Label Street, inquired about the intensity and duration of demolition and construction work and the dust it would create. She inquired if the applicant considered renovating the existing structure. She also asked if the vans used for the facility would be owned by the applicant and if the interior courtyard would be visible from the street.

Mercury Volt, of 89 Walnut Street, asked if the Walnut Avenue driveway would be gated. She also inquired about the timers used for the exterior lighting, as well as how the applicant would control dust from the demolition and construction.

Mr. Gaccione called Frederick Jenny, Executive Director of Senior Care and Activities Center, who was sworn. Mr. Jenny stated that the program has been operating for the last 24 years at Central Presbyterian Church at 46 Park Street and that they presently utilize 4 large rooms on the first floor of that location. Mr. Jenny also stated that the current program is classified as a Social Adult Day Care Center for which no licensing or certification is required, however that the proposed Adult Day Healthcare facility would require licensing and/or certification. Mr. Jenny continued by stating that the patients of the facility are an average age of 83, of which most are mentally or physically frail and that 80% of the patients suffer from Alzheimer's or another related dementia.

Mr. Jenny stated that the program hours are from 9 a.m. to 4 p.m., but that the employee hours range from 7:30 a.m. to 6:30 or 7 p.m.. Mr. Jenny stated that currently the program staffs 22 employees, of which 8 are full-time and 14 are part-time.

He also stated that the maximum number of employees on the site at any one time is 16, and that the drivers do not stay at the facility during their work hours. He continued by stating that presently 2 employees walk to the location at Park Street and 3 carpool.

Mr. Jenny stated that presently 95% of the patients are brought to the program facility by vans, and the remaining 5% are transported in by family members. He also stated that 8 to 10 patients are picked up or dropped off at one time and that the arrival times of the drivers are staggered. He continued by stating that the maximum daily attendance for the program is 68 patients.

Mr. Jenny stated that the program is in need of a new facility because the church is not renewing the lease which is due to expire in 2004. Mr. Jenny added to this by stating that the current facility has inadequate lighting and has only 1 barrier-free restroom which is near the back door leading to an active driveway. He also stated that the current facility is a shared space which is not designed for the "wandering" done by many Alzheimer's patients. He continued by stating that one third of the patients are incontinent and that the new facility would have the necessary shower rooms for patient clean-up.

Mr. Jenny indicated that the licensure standards would increase the employee count and the driver trips because of a 60 minute maximum travel time. He also stated that the vast majority of deliveries are done by UPS-type carriers and that no tractor-trailer vehicles are ever needed to make deliveries. He also stated that a private company would be contracted to haul trash and disposable medical waste. He continued by stating that the 75 and over age group is the fastest growing portion of the population and that the program is the only one of its type in Montclair and would be utilized by Montclair residents.

The Board questioned Mr. Jenny.

Mr. Jenny stated that 20 to 25% of the patients are Montclair residents and that the facility operates on a Monday through Friday basis.

Chair Harrison called for questions from the public.

Una Delaney, of 50 Label Street, asked if the applicant had a system in place to observe State idling laws and if the drivers who drive leased vans from NJ Transit are NJ Transit employees.

Mercury Volt, of 89 Walnut Street, inquired about the location of the pick-up/drop-off on the site and if the applicant will prevent DeCamp buses from parking along the front of their property.

Mr. Gaccione called Dean Boorman, Professional Planner, who was sworn. Mr. Boorman stated that the site presently contains an obsolescent industrial complex and that the proposed use blends in well with the surrounding uses. Mr.

Boorman also stated that the neighborhood generally contains conforming uses with nonconforming setbacks. Mr. Boorman continued by stating that the proposed location is ideal for the proposed use due to access, visibility, and size.

Mr. Boorman indicated that the proposed use is an inherently beneficial use because it is very similar to uses listed as beneficial by the Courts. He stated that the particular suitability of the site, the upgrade of the site, and the benefits to the community, qualify as special reasons to grant the requested variances. Mr. Boorman believed that the proposed use would not have any negative impacts on the neighborhood.

Mr. Boorman stated that the purpose of the signage ordinance with respect to the sign band location on the walls of buildings is applicable to commercial storefront windows, which the applicant is not proposing. He continued by stating that the proposed locations of the wall-mounted signs for the facility are appropriate for valid advertising and the necessary visibility. He also stated that alternative uses on the site would cause more traffic than the proposed use and that the proposed use would encourage the improvement of surrounding properties. Mr. Boorman concluded his testimony by stating the proposed use would not impair the purpose or intent of the Zone Plan.

The Board questioned Mr. Boorman.

Chair Harrison called for questions from the public. None were offered.

Chair Harrison called for public comment. None was offered.

Mr. Gaccione summarized the application.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Ms. Rock-Bailey, it was resolved to approve the variance application, subject to the following conditions:

1. The light fixture closest to the building on the adjacent corner property shall be relocated to the west as stipulated by the applicant.
2. The proposed use of the property shall be limited to an adult day health care center.
3. The existing 10 foot wide easement for the benefit of the adjacent DeCamp property shall be extinguished as of record.
4. The existing easement for the benefit of Block 3209, Lot 14 shall be

maintained and ingress and egress shall be afforded said property owner to permit vehicles to traverse the subject property and exit onto Greenwood Avenue which shall be recorded.

5. The proposed building shall be moved forward to the right-of-way line of Walnut Street and to provide a minimum 6 foot rear yard setback.

6. The traffic island shall be reduced by 10 feet to the south to provide additional turning area.

7. The applicant shall comply with items 1 through 4 and 6 through 10 contained in the correspondence dated January 3, 2002 from W. Thomas Watkinson, III Engineering and Planning, P.C. With respect to item 5, the proposed storm water inlet shall be constructed only if the Board Engineer determines it will control runoff from the applicant's site. As to item 11, the applicant shall install granite block curb except concrete curb may be installed along Greenwood Avenue if approved by the Engineering Department. The applicant shall comply with item 13, however, should the apron require removal of existing adjacent street tree, the applicant shall replace same to be approved by the Township Arborist. The applicant shall not be required to comply with item 12.

8. The wall mounted sign facing Walnut Street shall not exceed 24 inches in height.

On motion by Mr. Fleischer, seconded by Ms. Rock-Bailey, the meeting was adjourned.

Mr. Mylan left the meeting with Exhibits A-1, A-2, and A-3.