

**MINUTES OF THE BOARD OF ADJUSTMENT**  
**January 19, 2005**

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

ABSENT: None

Assistant Secretary Charreun called the roll and announced the regular meeting of the Montclair Board of Adjustment. Notice had been given in accordance with the Open Public Meetings Act.

On motion by Mr. Susswein, seconded by Mr. Haizel, the **Minutes of the December 15, 2004** regular meeting were adopted as modified, Ms. Cockey, Mr. Flood and Mr. Whipple abstaining.

**Election of Officers**

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

On motion by Mr. Flood, seconded by Mr. Haizel, Mr. Fleischer was re-elected as Vice Chair.

On motion by Mr. Haizel, seconded by Mr. Susswein, Mr. Mellon was elected as Secretary and Mr. Charreun was re-elected as Assistant Secretary.

**Appointment of Professional Staff**

On motion by Mr. Haizel, seconded by Ms. Cockey, Mr. Sullivan was re-appointed as Board Attorney at the indicated rate for the 2005 year.

On motion by Ms. Cockey, seconded by Mr. Haizel, Mr. Watkinson was re-appointed as Board Engineer at the indicated rate for the 2005 year.

On motion by Mr. Susswein, seconded by Mr. Haizel, the following Resolution memorializing the approval of the application of **Cornerstone Industries, LLC, 272 Valley Way** was adopted, Ms. Cockey, Mr. Flood and Mr. Whipple abstaining:

WHEREAS, Cornerstone Industries, LLC, as owner, did make application to the Board of Adjustment of the Township of Montclair to modify a condition imposed by a prior approval of the Board in connection with the construction of a single family residence and related improvements on property designated as Lot 20 in Block 103 on the Township Tax Map and located in the R-1 One Family Residential Zone; and

WHEREAS, the applicant specifically requested relief from Condition 4 contained in the Board's December 12, 2001 Resolution; and

WHEREAS, the applicant submitted a site plan and as-built plan consisting of one sheet bearing a revision date of October 26, 2004 prepared by Degrace Architects, Engineers, Surveyors; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on December 15, 2004, 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. By resolution adopted on December 12, 2001 the Board granted variance relief as well as relief pursuant to N.J.S.A. 40:55D-35, 36 in connection with the construction of a single family home and related improvements. The aforementioned resolution contained the following conditions:

4. The aforesaid driveway shall not extend westward (i.e., towards West Orange Township) any greater distance than as set forth in the site plan and, as a consequence, shall not extend into West Orange Township or provide access to any road or street in West Orange Township (however, a 16 foot wide gravel drive, shall be constructed as set forth in the site plan, shall meet existing Murray Street in West Orange Township, and shall be used only for fire protection purposes).

2. In accordance with the December 12, 2001 resolution, the applicant requested from, and the Township of Montclair did, in fact, vacate its public rights in Murray Street, subject to an easement for fire access in accordance with condition 4 above. The easement for fire access was to contain the 16 foot wide gravel driveway and was required as per the Fire Department's comments on the approved plan.

3. The applicant submitted a memorandum from Lt. Kevin Allen of the Fire Department to the Board Attorney, dated September 13, 2004, which indicates that the 16 foot wide gravel driveway, described in the aforementioned condition, would not be required. The memorandum indicates that the Fire Department is satisfied with access to the subject property via the paved driveway from Valley Way, that the slope of the westerly approach to the subject property was too steep for fire apparatus to traverse, and that certain right-of-way issues had arisen as a result of the vacating of Murray Street in Montclair. The Fire Department memorandum also required that the applicant install a new fire hydrant at a specific location on Valley Way pursuant to N.J.A.C 5:21-5.4.

4. The applicant now seeks relief from the aforementioned condition of approval, thereby eliminating the requirement to construct the 16 foot wide gravel driveway for emergency access.

5. The applicant testified that the area of the subject property that was intended for the gravel driveway would be graded as depicted on the plan submitted and appropriately landscaped.

6. The Board, based on the comments provided by the Fire Department memorandum dated September 13, 2004, determined that the aforementioned condition may be amended in order to no longer require the construction of the gravel driveway for emergency access purposes and that the applicant's request is reasonable and consistent with the intent and purpose of the original approval.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant's requests for relief from the prior conditions of the Board were reasonable and consistent with the original approvals granted pursuant to N.J.S.A. 40:55D-70c(2) and N.J.S.A.40:55D-35, 36;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Cornerstone Industries, LLC modifying Conditions 4 of the Board's December 12, 2001 resolution as set forth in the site plan and as-built plan bearing a revision date of date of October 26, 2004 prepared by Degrace Architects, Engineers, Surveyors, is hereby approved subject to the following conditions:

1. The applicant shall comply with all of the requirements of the Fire Department, as specified in the memorandum from Lt. Kevin Allen (now Acting Fire Chief) to the Board Attorney, dated September 13, 2004.

2. All conditions imposed by the December 12, 2001 and June 16, 2004 resolutions not inconsistent with the within modifications shall remain in full force and effect.

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. Haizel, seconded by Mr. Susswein, the following Resolution memorializing the approval of the variance application of **David and Laura Janay, 210 Highland Avenue** was adopted, Ms. Cockey, Mr. Flood and Mr. Whipple abstaining:

**WHEREAS**, **David and Laura Janay**, as owners, 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 permit the construction of a single-family dwelling on a vacant lot designated as Lot 3 in Block 601 on the Township tax map and located in the R-0 Mountainside Zone; and

**WHEREAS**, the applicants submitted engineering drawings on 4 sheets, prepared by Professional Planning and Engineering Corporation, revised to October 20,

2004, and architectural drawings on 6 sheets, prepared by Smith Maran, Architects, dated September 1, 2004; and

**WHEREAS**, this matter came on to be heard at meetings of the Board of Adjustment held on September 22, 2004, October 20, 2004, and December 15, 2004 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 applicants requested variances pursuant to N.J.S.A.40:55D-70c for failure to comply with the following:

- (a) **Montclair Code Section 347-32** in that a minimum lot width of 20,000 square feet within 200 feet of the street line is required and a lesser lot area of 19,904 square feet exists within 200 feet of Highland Avenue; and
- (b) **Montclair Code Section 347-34B** in that off-street parking is not permitted to be located between the main building and the curb of the street on which the building fronts, and a paved "turnaround" area that would also be utilized as a temporary parking space for visitors is located between the proposed dwelling and Highland Avenue; and
- (c) **Montclair Code Section 347-27.1B** in that, on interior lots, retaining walls shall not exceed 4.5 feet in height when built in front of the extreme rear corners of the principal building, and a taller height of 5.5 feet is proposed for certain retaining walls in the front and side yards; and
- (d) **Montclair Code Section 347-102C** in that a maximum driveway gradient of 10 percent within 20 feet of the front property line is permitted, and a gradient of 25 percent is proposed for a portion of the driveway within 20 feet of the front property line; and

**WHEREAS**, the applicants, at the October 20, 2004 meeting, submitted revised engineering plans, dated October 20, 2004, marked as Exhibit A-4, that eliminated the variance required from **Montclair Code Section 347-21D** to allow the main entrance stairway located on the northerly side of the proposed dwelling to project into the required northerly side beyond the maximum of 4 feet permitted by the ordinance; and

**WHEREAS**, the applicants, at the December 15, 2004 meeting, submitted a site plan, marked as Exhibit A-6, which depicted a revised retaining wall configuration and slight changes to the driveway layout, but did not eliminate any required variances; and

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

1. The subject property is an interior vacant lot located in the Steep Slope Area of the Township. The applicants propose to construct a single-family dwelling with

an attached three-car garage. Several retaining walls and a driveway are also proposed on the property.

2. The applicants demonstrated that the variance requested for lot area within 200 feet of the street line represents a minimal deviation from the ordinance, that the existing lot size of the subject property is consistent with lot sizes within the neighborhood, and that the existing lot size does not prevent the construction of a dwelling that meets all of the setback requirements.

3. No justification was provided to allow a front yard parking area, however, due to the steepness of the property and the driveway, the paved area at the front of the dwelling may be utilized strictly as a "turnaround" area to facilitate vehicle maneuverability and increase the safety of the driveway, and shall not be utilized for parking of any kind.

4. Due to the steepness of the site, the proposed retaining wall heights and layout as depicted on Exhibit A-6 is reasonable and in keeping with the character of the neighborhood. Also, the Board finds that allowing 1 foot of additional height above the maximum permitted height of 4.5 feet for certain retaining walls in the front and side yards for the purpose of preserving the existing grade in certain locations would be beneficial to the site.

5. The design of the driveway provides a "stopping platform" with a maximum gradient of 10 percent before it outlets onto Highland Avenue, which provides the necessary safety and is consistent with the intent and purpose of the ordinance.

**WHEREAS**, the Board, based on the foregoing findings concluded that, with respect to the variance required for front yard parking, the applicants failed to 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 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, with respect to the variance required for front yard parking, the applicants failed to 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)*;

**WHEREAS**, the Board, based upon the foregoing findings, concluded that, with respect to the variances required for lot size, retaining wall height, and driveway gradient, the applicants proved peculiar and exceptional practical difficulties and exceptional and undue hardship and did prove that the requested 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, with respect to the variances required for lot size, retaining wall height, and driveway gradient, 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 David and Laura Janay is hereby approved, subject to the following conditions:

1. A formal parking space shall not be established in the front yard.
2. The applicants shall comply with comments 1, 2, 4, 5, 6, 7, and 8 in the Board Engineer's report dated September 20, 2004, and the plans shall be revised according to those comments and submitted to the Board Engineer for approval. The plans shall also be revised to incorporate the most recent revisions to the plan, depicted on Exhibit A-6, and submitted to the Board Engineer for approval.
3. The applicant shall, 7 days in advance of any grading or blasting, notify the Montclair Water Bureau and all property owners within 200 feet. The applicant shall also, 7 days in advance of any tree removal or construction of the dwelling, notify the Montclair Water Bureau, the immediately adjoining property owners located at 206 and 214 Highland Avenue, as well as the property owner directly across the street located at 209 Highland Avenue.
4. Any trees that are not removed on the subject property, as well as trees on the neighboring properties located at 206 Highland Avenue and 214 Highland Avenue, within 25 feet of the property line which are of a diameter of 6 inches or greater that do not survive within a year after the Certificate of Occupancy is issued for the proposed dwelling, shall be replaced by a like kind tree, which will not have to be the same size as the tree being replaced.
5. The applicant shall pay any required development fees to the Montclair Housing Trust Fund in accordance with Montclair Code Section 202-39 et seq.
6. Any central air-conditioning units placed on the property shall conform to the requirements of the zoning ordinance.
7. The limit of disturbance shall remain as shown on the revised engineering drawings dated October 20, 2004, and the changes to the plan depicted on Exhibit A-6 shall be incorporated into the plan for the limit of disturbance.

8. No retaining walls in the front or side yards shall exceed 4.5 feet in height, except where the preservation of the existing grade requires a taller retaining wall height, in which case the maximum retaining wall height shall be limited to 5.5 feet in height in the front or side yards.

9. The first 20 linear feet of driveway, as measured along the centerline of the driveway, shall be limited to a maximum gradient of 10 percent.

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

On motion by Mr. Haizel, seconded by Mr. Susswein, the following Resolution memorializing the approval of the variance application of **Cellular Telephone Company d/b/a AT&T Wireless, 36 Hawthorne Place** was adopted, Ms. Cockey, Mr. Flood and Mr. Whipple abstaining:

WHEREAS, Cellular Telephone Company, d/b/a/ AT&T Wireless, did make application to the Board of Adjustment of the Township of Montclair to permit telecommunication panel antennae and equipment cabinets on the roof of property designated as Lot 2 in Block 2110 on the Township Tax Map and located in the R-4 Zone; and

WHEREAS, the applicant requested variance relief from N.J.S.A. 40:55D-70d(3) for failure to comply with all of the conditional use standards contained in Montclair Code Section 347-17.1C(5); and

WHEREAS, the applicant submitted a site plan, elevations and details prepared by Malick & Scherer, P.C. dated July 19, 2004 revised through August 2, 2004; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on December 15, 2004 at which time it was established that notice was 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 measures 142,441 square feet in size and contains a six story residential apartment building.

2. The applicant proposes to install 12 flush mounted panel antennae, one GPS antenna and 6 equipment cabinets on the roof of the building.

3. The application complies with all of the conditional use standards contained in the Montclair Township Zoning Ordinance except that the apartment

building is 58 feet in height and a minimum of 60 feet is required pursuant to Montclair Code Section 347-17.1C(5)(a) and the GPS antenna exceeds the height of the structure to which it is mounted contrary to Section 347-17.1C(5)(d).

4. Installation of the antennae will eliminate a coverage gap and improve wireless communication service to the applicant's subscribers as per the applicant's FCC license which constitutes appropriate municipal action in a manner which will promote the public health, safety and general welfare consistent with the purposes of the Municipal Land Use Law.

5. Based upon the size and location of the existing apartment building, the proposed roof top location of the site is particularly suited for wireless communication antennae and continues to be an appropriate site for the conditional use notwithstanding the deviations from the conditions imposed by the ordinance.

6. The proposed antennae and related equipment shall comply with all applicable State and Federal regulation for radiation transmission levels.

7. The visual intrusion caused by the height of the proposed GPS antennae is minimal and will not adversely impact adjacent properties and is not inconsistent with the intent and purpose of the zone plan and zoning ordinance.

8. The application does not involve any noise, vibrations, smoke, dust, odors, heat or glare and involves minimal noise and thus will not cause substantial detriment to the public good and is not inconsistent with the intent and purpose of the zone plan and zoning ordinance.

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; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Cellular Telephone Company, d/b/a/ AT&T Wireless for variance relief pursuant to N.J.S.A. 40:55D-70d(3) is hereby approved subject to the following conditions:

1. The proposed antennae shall be painted to match the structure to which they are attached.

2. A uniform screened area shall be installed around the proposed equipment cabinets in order to comply with Section 347-17.1C(5)(h).

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

Chair Harrison stated that 6 members of the Board are present and that the discussion and vote on the site plan and variance application of **John and Rose Kardashian, 750 Valley Road** would be moved to a later point in the meeting when more Board members have arrived.

Chair Harrison called the variance application of **Efrem Meretab and Robin Renn, 53 Glenwood Road**. David Owen, Esq., appeared as attorney for the applicants and described the application. He stated that in October 2004, a large tree located on an adjoining property to the rear of the applicants' property fell and destroyed the detached garage that was located in the northwest rear corner of the applicants' property. He stated that the applicants' are seeking to reconstruct a 2-car detached garage in the same area of the property while adding additional size to the footprint of the garage.

Mr. Owen called Paul Sionas, Licensed Architect and Professional Planner, who was sworn.

Marked into evidence were:

- A-1 Proof of Publication of the public notice from the Montclair Times
- A-2 Affidavit of Service
- A-3 Variance Application form, dated December 13, 2004
- A-4 Site Plan, floor plan, and elevations, on 1 sheet, prepared by Sionas Architecture, P.C., revised to November 29, 2004
- A-5 Ten (10) photographs of the subject property on a board

Mr. Fleischer joined the meeting. Chair Harrison stated that Mr. Fleischer would be eligible to vote on the application since testimony had not commenced.

Mr. Sionas described the application and stated that the previously existing detached garage measured 17 feet 10 inches in width by 19 feet 3 inches in depth. He stated that the proposed garage would be widened by 4 feet 2 inches to measure 22 feet in width, with the additional size added to the easterly side of the garage. He also stated that the dimensions of the proposed detached garage would be more in keeping with the standard detached garage dimensions of 24 feet in width by 24 feet in depth and that the same westerly side yard setback of 1.32 feet and rear yard setback of 2.45 feet are proposed. He further stated that the westerly side yard and rear yard setback areas have contained mulch beds and will continue to contain mulch beds and that the adjoining properties to the north and west contain a row of evergreen plantings that will screen the view of the proposed garage. He continued by stating that the proposed detached garage has been designed to compliment the design of home, that a pull-

down stairway is proposed and that the height of the proposed garage would measure 12 feet 6 inches.

Mr. Sionas stated that the applicants considered relocating the proposed detached garage in order to comply with the setback requirements. He stated that in 2002, an addition and masonry patio were constructed onto the rear of the home that were based on the location of the previously existing garage and that the location of the proposed garage cannot be shifted closer to the home. He referred to the photoboard marked as Exhibit A-5 and stated that shifting the proposed garage to the east would potentially harm an existing mature tree in the rear yard. He continued by addressing the variances requested and stated that the variances could be justified by both the C(1) hardship grounds and the C(2) grounds in which the benefits outweigh any detriments. He stated that the location of the proposed garage is based on the lawful location of the previously existing structure and that relocating the garage would cause the applicants undue hardship. He also stated that the application promotes certain zoning purposes by providing sufficient space in an appropriate location for a detached garage and by promoting a desirable visual environment. He further stated that the application does not represent a substantial detriment to zoning ordinance, Master Plan, or adjoining properties because the previously existing setbacks are proposed and the proposed location of the detached garage and the setbacks proposed are typical in the neighborhood. He also stated that the landscaping on the adjoining properties would screen the proposed detached garage and that the parking provided within the proposed garage would be more in keeping with the standards of the zoning ordinance and the New Jersey Residential Site Improvement Standards.

The Board questioned Mr. Sionas. Mr. Owen called Robin Renn, owner, who was sworn. Ms. Renn stated that the previously existing garage did not fit 2 vehicles comfortably and safely and that it was essentially a one-car garage. Mr. Sionas stated that the previous garage had a center hip roof design and that the proposed garage is taller than the previously existing garage. He also stated that the roof leaders on the proposed detached garage would direct stormwater to the applicants' driveway.

Chair Harrison called for questions and comments from the public.

Carmel Loughman, 58 Elston Road, was sworn and stated that she resides on the property directly behind the applicants' property. She stated that the large tree that fell and destroyed the applicants' garage was located on her lot. She stated that there is a 10-foot tall hedge on her property that would screen the view of the new garage and that she is in favor of the application.

The Board questioned Ms. Loughman. Ms. Loughman stated that she is aware that the proposed garage is taller than the previously existing garage.

John Fabian, 55 Glenwood Road, was sworn and stated that he resides on the adjoining property to the west. He stated that his property is probably the most affected by the application and that he is in favor of the application.

John Helm, 49 Glenwood Road, was sworn and stated that he resides on the adjoining property to the east. He stated his support for the application.

Mr. Owen gave his closing remarks.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Haizel, the variance application was approved.

Mr. Owen left the meeting with Exhibit A-5.

Chair Harrison stated that 7 members of the Board are now present and eligible to discuss and vote on the site plan and variance application of **John and Rose Kardashian, 750 Valley Road**. The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Haizel, the site plan and variance application was approved, subject to the following conditions:

1. The applicants shall comply with comments 1 and 2 in the memorandum dated October 25, 2004 from W. Thomas Watkinson, Montclair Zoning Board Engineer. With respect to comment 3, a partial topographic plan shall be submitted to confirm the drainage is not adversely impacted.
2. No new exterior lighting shall be permitted.
3. As stipulated, the fence in the rear shall be removed or relocated off the subject property.
4. The covered patio shall not be enclosed and shall not be utilized for permanent storage of any equipment or parking of any vehicles.
5. The applicant shall pay any required development fees to the Montclair Housing Trust Fund in accordance with Montclair Code Section 202-39 et seq.
6. 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 the review of this matter.

Chair Harrison called the amended site plan and variance application of **Emanuel's Hope Baptist Church, 18-20 Washington Street and 21 Fulton Street**. Chair Harrison stated that because the application is to amend a prior approval, the testimony should focus on the deviations from the previous approval. Calvin Trevenen, Esq., appeared as attorney for the applicant and described the application. He described the prior approval and the reasons why the applicant needs to amend the approved plans.

Marked into evidence was:

A-1 A copy of the merger deed, consolidating the properties in question

Mr. Trevenen stated that the merger deed was required by the prior resolution. He also stated that the merger deed was recently prepared and has yet to be recorded.

Ms. English joined the meeting.

Mr. Trevenen called Reverend Sterling Brooks, who was sworn. Rev. Brooks stated that he has been a pastor with Emanuel's Hope Baptist Church for 21 years and that they have been located in Montclair for 20 years. Mr. Trevenen reviewed the conditions of approval from the previous resolution with Rev. Brooks. Rev. Brooks described the use of the mission house located at 21 Fulton Street. He stated that the mission house contains office space, sitting rooms, and a dwelling unit that is occupied by a caretaker of the property. He described the hours and activities of the church and stated that the schedule has remained the same as was indicated with the prior application.

The Board questioned Reverend Brooks. Rev. Brooks stated that at the present time, the mission house is also used for choir practice on Thursday evenings and prayer meetings on Wednesday mornings, which results in a maximum occupancy of 8 people in that building at those times. He also stated that these activities would be moved to the new church building if it were approved. He continued by stating that a caretaker's apartment is located in the basement of 21 Fulton Street. Mr. Trevenen stated that the applicant would agree to obtain a Certificate of Occupancy for the caretaker's basement dwelling unit.

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

Mr. Trevenen called Paul Sionas, Architect, who was sworn. Mr. Sionas described the originally approved plans and stated that the applicant has decided to utilize modular construction for the proposed building addition, which has changed the dimensions of the building and reduced the number of proposed parking spaces on the site. He stated that as a result of the modular redesign, the church building is now 4 feet 9 inches longer to the rear, which also reduced the number of proposed parking spaces on the site from 18 to 16. He also stated that the modular design reduced the width of the proposed addition by 7 inches.

Marked into evidence was:

A-2 Sheet SP-1 on a board, Site Plan with color, prepared by Sionas Architecture, dated November 2, 2004

Mr. Sionas reviewed the changes to the plan that were required as a result of the prior approval, including changes to the driveway, fences and gates on the site. He stated that the landscaping and lighting are in keeping with the standards of the prior

approved application. He also stated that the barrier-free ramp on the previously approved plans has been eliminated and that the proposed building addition and modifications include an elevator within the building. He continued by describing the parking requirements and stated that the originally approved plan required 20 parking spaces based on the linear feet of bench seating that was proposed. He further stated that the present parking requirement of 16 spaces is based on the number of individual seats proposed, which would be removable folding chairs. He also stated that the church chose removable chairs to add flexibility in utilizing the first floor of the church building.

The Board questioned the applicant. Rev. Brooks stated that 75 to 80 chairs are presently used for the seating within the existing church building. Mr. Trevenen called Jason Bossart, Project Manager with Bossart Builders, who was sworn. Mr. Bossart described the modular construction proposed for the church addition. He referred to sheet A-3, First Floor Plan prepared by Barden Church Building Services, dated September 13, 2004, and described the panels utilized in the modular construction. He stated that the panels used in modular construction are pre-cut and shipped to the site. Mr. Sionas stated that he had conversation with the Project Architect from Barden Church Building Services, Christine Marks, regarding the increased length of the building and the impact to the parking area, and that it was determined that it was necessary due to expense and design considerations. He also stated that it would be possible to reduce the size of certain parking spaces and aisle widths to compact standards in order to gain the 2 parking spaces that were lost as a result of the modular redesign, however, that the design team has chosen to have a more conforming parking lot with as many standard sized parking spaces and aisle widths as possible. Mr. Trevenen stated that the previously approved plan called for 6 compact parking spaces and that the present plan calls for 2 compact parking spaces.

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

Mr. Trevenen called Michael Petry, Professional Planner, who was sworn. Mr. Petry described the zoning and existing land uses of the neighborhood. He also described the changes to the plan and the variances required. He stated that the revised plan provides the best option to maximize parking on the site. He also stated that the plan presently calls for 133 seats and that limiting the applicant to no more than 144 seats for future growth would be in keeping with prior variance approval for parking. He addressed the variance requested for the front yard setback and stated that it should be approved because the front yard setback of the church building is in keeping with the neighborhood and the proposed addition is aligned with the existing front wall of the structure. He further stated that the additional height provided by the proposed addition is also in keeping with the 2½-story height of most dwellings in the neighborhood. He stated that the present application would be an improvement to the neighborhood because it would take a significant amount of parking off the street and that both the Board's concerns and the neighbor's concerns have been incorporated into the present plans. He continued by stating that the application meets the standards for conditional use approval because the parking deviation is minor and represents less of a deviation from than the previous approval.

The Board questioned Mr. Petry.

Mr. Petry stated that any new or existing schools nearby would not be affected by on-street parking associated with the applicant because schools have different peak hours. He also stated that very few existing houses of worship in Montclair have the required number of off-street parking spaces.

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

Mr. Trevenen gave his closing remarks. He stated that Condition 6 of the prior approval would need to be modified in order to allow a caretaker's apartment within the mission house, subject to obtaining any required inspections for that dwelling unit.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Ms. Cockey, the amended site plan and variance application was approved, subject to the following conditions:

1. The applicant shall comply with conditions 1 through 5 contained in the Board's February 19, 2003 resolution.
2. Condition 6 of the February 19, 2003 resolution shall be modified to allow use of the structure at 21 Fulton Street for a maximum of one dwelling unit to be occupied by at least one person associated with the church provided a Certificate of Occupancy for such use is obtained within 90 days. Said dwelling unit shall not be leased or rented.
3. Landscaping of the parking area shall conform to the ordinance.
4. The applicant shall pay any required development fees to the Montclair Housing Trust Fund in accordance with Montclair Code Section 202-39 et seq.
5. 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 the review of this matter.

Mr. Sionas left the meeting with Exhibit A-2.

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