

**MINUTES OF THE BOARD OF ADJUSTMENT
FEBRUARY 1, 2006**

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

ABSENT: Mr. Flood and Mr. Mellon, Secretary

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

Chair Harrison addressed the Board regarding the recent legislation requiring that Board members participate in mandatory educational programs pursuant to New Jersey Department of Community Affairs regulations. He stated that based on his inquiries, it appears that Board members that take the training courses this year would likely not have to take the training again next year, although it is subject to the rules not changing. He stated that his opinion is that it would be better to wait until next year to take the training courses in order to be sure that the credit for the courses is received.

Chair Harrison called the continuation of the application of **Wallwood Gardens, Inc., 400 Orange Road**. He stated that the applicant had finished their testimony at the last hearing on the application and that the professional testifying on behalf of the objectors may begin.

Liz McCumsey Buckley, Professional Planner, was sworn and stated her qualifications. She stated that she has reviewed the application, zoning ordinance and Master Plan, visited the site several times, and attended each hearing on the application.

Marked into evidence was:

O-1 Four (4) photographs of the subject property on a sheet

Ms. McCumsey Buckley stated that she took the photographs for exhibit O-1 earlier this day. She described the existing site, the structures on the site and their setbacks. She also described the existing conditions of other properties in the immediate vicinity and stated that the applicant is proposing a residential density of 21.7 units per acre. She described the zoning of area and existing nonconforming uses and stated that the dominant use in the area is single-family with dwellings of no more than 2 ½ stories in height. She also referred to the last complete Master Plan of 1987 and the last re-examination of 1999, and stated that the policy towards maintaining R-1 districts did not change.

Ms. McCumsey Buckley described the variances required and stated that the applicant is seeking 3 different types of "d" variances, including variances for the type of structures proposed, the residential density proposed, and the principal building height

in terms of stories. She also described the setback variances requested by the applicant. She addressed the off-street parking provided and stated that the Board should consider that the top floor of the proposed units, which is a half-story, contains finished space that could be used as bedrooms and effect the parking requirement. She stated that the plan proposes building sizes that are out of scale with existing structures in the area and that the building masses are proposed at the edges of the lot, which is uncharacteristic of the neighborhood. She continued by stating that the site is not particularly suited for multiple unit residential development and that the proposed setbacks would have a significant negative visual impact.

Ms. McCumsey Buckley described the history of the subject property and stated that the proposed use is a more intensive use than the existing garden center. She further stated that the applicant has failed to demonstrate any special reasons, has not satisfied the negative criteria, and has not demonstrated that there would be no substantial detriment to the Master Plan, zoning ordinance, and the public good and that the application should be denied.

The Board questioned Ms. McCumsey Buckley. Ms. McCumsey Buckley stated that the site is not particularly suitable for the proposed use because the site could be easily developed with a certain number of detached single-family dwellings. Ms. McCumsey Buckley described different residential densities and types of residential structures that could be developed on the site and gave her opinion on their impact in terms of zoning.

Mr. Taylor cross-examined Ms. McCumsey Buckley. Ms. McCumsey Buckley stated that she has been retained by Renee Baskerville, 371 Orange Road. She described a photograph displayed to her by Mr. Taylor that depicts 3 attached homes on Linden Avenue.

Marked into evidence was:

A-19 Photograph of existing attached homes on Linden Avenue

Chair Harrison called for questions from the public.

Tracy Fairland, 185 Willowdale Avenue, referred to Exhibit A-9 and asked where snow plowed from the property could be placed and where an appropriate place to store household garbage would be.

Renee Baskerville, 371 Orange Road, was sworn, stated that there has been misinformation put forth regarding the fact that she is the one who retained Ms. McCumsey Buckley. She stated that Ms. McCumsey Buckley was retained by 135 people who are residents of the area, and that she was only a contact person.

The Board questioned Ms. McCumsey Buckley. She referred to Exhibits A-4 and A-11 and stated that Linden Avenue is not located on either. She also stated that attached housing is not characteristic in the area and is not suitable for the site.

Chair Harrison called for further questions from the public.

Renee Baskerville, 371 Orange Road, asked Ms. McCumsey Buckley if she was aware of the types of new development in the area of the subject property.

Dolores B. Reilly, 37 Draper Terrace, referred to A-10 and asked if the presence of existing two-family dwellings should be considered a factor in determining the impact of the proposed development.

Sybil Smith-Darlington, 67 Pleasant Way, asked Ms. McCumsey Buckley if she could recite the meeting dates that she was present. Ms. McCumsey Buckley stated that she was present at hearings held on November 16, 2005 and January 18, 2006. Chair Harrison confirmed that Ms. McCumsey Buckley was here for all meetings where testimony was given.

Yvonne Bouknight, 9 Brooklawn Road, asked whether a subdivision containing two-family homes on the site would require a use variance.

Audrey Fletcher, 6 Amelia Street, asked Ms. McCumsey Buckley if she has ever testified in favor of a development similar to the one proposed in a single-family zone.

James Woods, 52 Linden Avenue, asked for a clarification on how the proposed use would be more intensive than the existing use.

Antoinette Bennett, 28 Gates Avenue, asked for a clarification on the definition of a skyscraper.

Chair Harrison called for public comment.

Renee Baskerville, 371 Orange Road, still under oath, stated her opposition to the application. Mr. Taylor questioned Ms. Baskerville. She stated that she does not live within 200 feet of the subject property.

Ethel Booker, 24 Ward Place, was sworn, and stated her opposition to the application. She referred to Exhibit A-11 and asked whether her property is located within 200 feet. Chair Harrison stated that based on the map, it appears that her property is not within 200 feet of the subject property. The Board questioned Ms. Booker. Mr. Taylor questioned Ms. Booker.

Janis Zadel, 79 Pleasant Way, was sworn and stated her opposition to the application. Mr. Taylor questioned Ms. Zadel.

Cynthia Wade, 39 Harrison Avenue, was sworn, and stated her support for the application.

Lillie Bell White, 77 Pleasant Way, was sworn, and stated her opposition to the application.

Richard Williams, 22 Ward Place, was sworn and stated his opposition to the application.

Yvonne Bouknight, 9 Brooklawn Road, was sworn, and stated her opposition to the application.

Tracy Fairland, 185 Willowdale Avenue, was sworn, and stated her opposition to the application.

Chair Harrison called for a short recess. Upon returning public comment continued.

Janet Hubert-Kraft, 5 Ward Place, was sworn, and stated her opposition to the application.

Wallace Choice, 5 Pierpont Drive, was sworn and stated his support for the application.

Chair Harrison called for another short recess. Upon returning public comment continued.

Anita Clark, 129 Midland Avenue, was sworn, and stated her support for the application.

Audrey Fletcher, 6 Amelia Street, was sworn, and stated her support for the application.

Gloria Asbury, 4 Friendship Place, was sworn and stated her support for the application.

Sybil Smith-Darlington, 67 Pleasant Way, was sworn and stated her opposition to the application.

James Dargan, 391 Orange Road, was sworn and stated his opposition to the application.

Dolores Reilly, 37 Draper Terrace, was sworn and stated her support for the application.

Gwendolyn Pines, 108 Willowdale Avenue, was sworn and stated her support for the application.

Fanny Fuentes, 185 Willowdale Avenue, was sworn and stated her opposition to the application.

Bill Carr, 10 Pierpont Drive, was sworn and stated his opposition to the application.

Thomas White, 77 Pleasant Way, was sworn and stated his opposition to the application.

Mr. Taylor asked to recall Geraldine Woods, one of the two owners of the subject property. He stated he wanted to have Ms. Woods testify to the issue of affordability of the proposed dwelling units. Chair Harrison stated that the issue of affordability had already been addressed as part of the applicant's direct testimony. Mr. Taylor proceeded by giving his summation.

The Board discussed the application. On motion by Mr. Fleischer, seconded by Mr. Susswein, the application was denied.

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