

**MINUTES OF THE BOARD OF ADJUSTMENT
APRIL 10, 2002**

PRESENT: Chair Harrison, Ms. Brooks, Mr. Chapman, Mr. Haizel, Ms. Rock-Bailey, Mr. Susswein; also, Mr. Sullivan, Esq., Mr. Sammet, Secretary, and Mr. Charreun, Planning Technician

ABSENT: Vice Chair Fleischer, Ms. Costello, and Mr. Gallardo

Secretary Sammet 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. Chapman, seconded by Mr. Susswein, the **Minutes of the March 7, 2002** special meeting were adopted as modified, Ms. Brooks abstaining.

On motion by Mr. Chapman, seconded by Ms. Costello, the **Minutes of the March 20, 2002** regular meeting were adopted as modified, Mr. Haizel and Ms. Rock-Bailey abstaining.

On motion by Mr. Chapman, seconded by Ms. Brooks, the following Resolution memorializing the approval of the variance application of **Denis Orloff and Amy Wax-Orloff, 349 Park Street** was adopted, Mr. Haizel, Mr. Susswein, and Ms. Rock-Bailey abstaining:

WHEREAS, Denis Orloff and Amy Wax-Orloff, owners of property at **349 Park Street**, did make application to the Board of Adjustment of the Township of Montclair for an amendment to an already approved application and requiring a variance pursuant to NJSA40:55D-70c to allow for a front yard setback less than that required pursuant to **Montclair Code Section 347-45B(2)** in connection with the construction of a single-family dwelling on property designated as Lot 1 in Block 3505 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicants submitted a property survey prepared by Dominick J. Venditto, III, dated October 9, 1998 and a site plan and elevations prepared by Oasis Architecture and Planning, P.C., dated October 22, 2001, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on March 20, 2002 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 Park Street and Summit Avenue and once contained a one-story structure used as a medical office.
2. The structure existing on the property had a non-conforming front yard setback of 49.9 feet along Park Street due to the unusually large setback of the adjacent dwelling on Park Street. The first floor of the existing structure was demolished during construction.
3. Testimony during the November 7, 2001 meeting included statements that the exterior walls and exterior framing of the existing structure would remain. Demolition of the exterior walls and exterior framing of the structure resulted in a significant change to the plans approved by the Board, therefore necessitating amendment to an already approved application and front yard setback variance.
4. The applicants' proposal is to construct a single-family dwelling on the subject property.
5. The proposed front yard setback along Park Street will be 49.9 feet as measured from the closest portion of the foundation wall to the front lot line.
6. The 3½-story easterly portion of the dwelling meets all height and setback requirements.
7. The proposed conversion from a medical office, a non-conforming use, to a single-family dwelling, a conforming use, would be beneficial to the surrounding neighborhood.

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 Denis Orloff and Amy Wax-Orloff is hereby approved, subject to the following condition:

1. The dwelling shall be built no closer to the front property line along Park Street than the existing structure.

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. Chapman, seconded by Ms. Brooks, the following Resolution memorializing the approval of the variance application of **Tom King, 146 Midland Avenue** was adopted, Mr. Haizel and Ms. Rock-Bailey abstaining:

WHEREAS, Tom King, owner of property at **146 Midland Avenue**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70c to allow for a northerly side yard setback less than that required pursuant to **Montclair Code Section 347-45C(1)** in connection with the construction of an addition on property designated as Lot 16 in Block 2401 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a property survey prepared by Scott M. Bleeker, dated May 15, 1998 and a site plan, floor plans, and elevations prepared by Francis C. Klein and Associates, revised to January 15, 2002, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on March 20, 2002 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 measures approximately 12,780 square feet and contains a 2½-story one-family dwelling, a detached garage, and a shed in the rear yard.

2. The existing dwelling on the property has a non-conforming northerly side yard setback of 7.1 feet at the northwesterly corner of the dwelling.

3. The applicant's proposal is to construct a 2½-story addition at the rear of the dwelling which conforms to the height and rear yard setback requirements but does not meet the side yard setback requirement.

4. The proposed addition will be aligned with the existing northerly wall of the dwelling and the proposed northerly side yard setback increases towards the northwesterly corner of the proposed addition due to the angle of the northerly side property line.

5. The applicant's proposal does not represent a detrimental impact to the neighborhood and is not inconsistent with the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicant 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 applicant 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 within variance application of Tom King is hereby approved subject to the following condition:

1. The addition shall be built no closer to the existing northerly side property line than the existing dwelling.

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. Chapman, seconded by Mr. Susswein, the following Resolution memorializing the approval of the variance application of **Marc A. Solondz, 214 Fernwood Avenue** was adopted, Mr. Haizel and Ms. Rock-Bailey abstaining:

WHEREAS, Marc A. Solondz, as owner, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow for a side yard setback less than that required pursuant to **Montclair Code Section 347-46A(2)(a)** and a rear yard setback less than that required pursuant to **Montclair Code Section 347-46A(3)** in connection with the construction of a detached garage on property designated as Lot 28 in Block 1807 on the Township tax map and located in the R-1 One-Family Residential Zone; and

WHEREAS, the applicants submitted a property survey prepared by Tuenisen Surveying & Planning Co., Inc., dated February 26, 2002 and garage floor plans and elevations prepared by Barton & Associates, L.P., dated January 10, 2002, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on March 20, 2002 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 applicant received a Stop Work Order from the Building Office on November 30, 2001 in connection with the commencement of construction of a detached garage on his property without obtaining permits.

2. The applicant submitted plans for the new garage on December 7, 2001 at which time he was advised that the construction violated the side yard setback requirement contained in **Montclair Code Section 347-46A(2)(a)** and the rear yard setback requirement contained in **Montclair Code Section 347-46A(3)** giving rise to the within variance application.

3. The Board determined that the proposed easterly side yard setback of the new garage represents an encroachment into the required side yard. The Board also determined that the proposed rear yard setback represents a further encroachment into an already nonconforming rear yard.

4. The testimony of the applicant indicated that building permits were not obtained prior to commencing construction and that the requested setbacks are based upon the location of the new construction. Further, the applicant did not demonstrate any hardship with relation to space on his property. As a result, any "hardship" is based on the location of the new construction and is self-imposed.

5. Approval of the side yard setback as proposed by the applicant would substantially impair the intent and purpose of the zoning ordinance which seeks to maintain sufficient open space between adjacent properties.

6. The Board determined that a variance to permit a rear yard setback in keeping with the previously existing rear yard setback could be granted without substantial detriment to the public benefit and without substantially impairing the zone plan.

WHEREAS, the Board, based upon the foregoing findings, concluded that, with respect to the rear yard setback variance, the applicant 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, with respect to the rear yard setback variance, the applicant 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 N.J.S.A.40:55D-70C(2); and

WHEREAS, the Board, based on the foregoing findings concluded that, with respect to the easterly side yard setback variance, the applicant did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and failed to prove that the variances 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 easterly side yard setback variance, 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 Marc A. Solondz, for a variance pursuant to *N.J.S.A. 40:55D-70C(1)* and (2) to allow an easterly side yard setback less than the required side yard setback is hereby denied; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Marc A. Solondz for a variance pursuant to *N.J.S.A. 40:55D-70C(1)* and (2) to permit a rear yard setback less than the required rear yard setback is hereby approved subject to the following condition:

1. The rear yard setback of the new garage shall be no less than the rear yard setback of the previously existing garage.

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 announced the postponement of the variance application of **Russell Huewe, 576 Highland Avenue**, to the May 15, 2002 meeting at the request of the applicant.

Chair Harrison called the variance application of **David and Anne Sailer, 223 Valley Road**. Michael Maneri, Esq., appeared as attorney for the applicants.

Mr. Maneri described the application and called David and Anne Sailer, owners and applicants, who were sworn.

Marked into evidence was:

- A-1 Area Map depicting the existing restrictions on street parking and the location of municipal parking lots, prepared by Anne Sailer, dated October 22, 2001

Mrs. Sailer stated that she and her husband have lived at 223 Valley since 1998 and that until recently, they had been parking their vehicle on the driveway, which is partially on the property next door at 49 Brunswick Road. She stated the previous owners of their home had parked on the driveway for about 50 years and that they themselves had parked on the driveway for the last 3 years until an attorney for the new owners of 49 Brunswick informed them that they could no longer utilize the portion of the driveway that belongs to 49 Brunswick Road.

Mrs. Sailer described Exhibit A-1 which she had prepared. She outlined the various problems associated with the available street parking and the municipal parking lots including time limits and distance from their home. She stated that the Township has given them special dispensation to park overnight on Brunswick Road. She further stated that they have been parking on Brunswick Road for the last 3 months and that the permit to do so expires at the end of April 2002.

Mrs. Sailer described her property and stated that the portion of the driveway that lies on their property is about 7 feet wide. She further stated that curb of the street and an existing utility pole impedes access to their portion of the driveway. She stated that they are requesting 2 parking spaces because they believe that they are required to do so by ordinance. Mrs. Sailer stated that the Township Council is proposing that many of the streets near her home, which currently have unlimited daytime parking, be limited to 2 hour parking. She continued by describing the parking options her family would have if they were not granted the variance for front yard parking.

Mr. Sailer stated that he was concerned about the safety of his family if they needed to walk long distances in the evening after parking their vehicle far from their home.

Mr. Maneri called Mark Palus, Professional Engineer and Professional Planner, who was sworn. Mr. Palus described his qualifications.

Marked into evidence was:

A-2 Photographs of 223 Valley Road, taken by Mr. Palus in November 2000

Mr. Palus described the photographs of the Sailer's property. He stated that the property line between the Sailer's property and the property to the south divides the asphalt drive and the existing curb cut. He stated that the neighbor at 49 Brunswick Road has installed curbing along property line, which has limited the Sailer's portion of the driveway to about 6 feet in width. He stated that the existing side yards of the Sailer's home are not wide enough to allow for a driveway leading to the rear of the property, leaving the front yard as the only viable location for off-street parking on the property.

Mr. Palus stated that the existing curb cut in front of the Sailer's home would be widened to 12 feet to provide access for 2 parking spaces in their front yard. He stated that the 18-foot parking space length would be sufficient because there is room for vehicle overhang at the existing walkway on the property. He further stated that the 19-foot parking space length required by code would eliminate valuable back-up area for the vehicles. He stated that the proposed plan calling for 2 parking spaces entails difficult parking maneuvers and that one vehicle could utilize the parking area more easily. Mr. Palus stated that the horizontal curvature of Valley Road, north of the Sailer's property provides a 190-foot sight distance from the proposed driveway. He stated that this sight distance is deficient, however it is viable and functional. Mr. Palus further stated that the plans have received approval from the Essex County Planning Board.

Mr. Palus stated that the testimony provided clearly indicates the applicants' hardship. He also stated that the benefits of this application outweigh the detriments and that the application does not impair the purpose or intent of the Master Plan and Zoning Ordinance.

The Board questioned the applicants and Mr. Palus.

Mr. Palus stated that the presence of a fence along the dividing property line of the driveway would inhibit the parking maneuvers but not eliminate them. He stated that aisle width for the proposed parking area ranges from 8 to 12 feet in width.

Mrs. Sailer stated that they have not inquired about renting parking from the Montclair Kimberley Academy.

Mr. Maneri stated that he had explored the option of negotiating and acquiring an easement from 49 Brunswick Road and that the owner of that property was not interested in negotiating such an easement. He stated that an offer was made on behalf of the Sailer's to the neighbor's attorney and that the offer was rebuffed. He further stated that the only offer made to the Sailer's was a revocable license to park on the driveway, which could be revoked at any time.

Mrs. Sailer stated that one parking space on their property would be sufficient.

Mr. Palus stated that the County requires that a turn-around area so that vehicles do not back out from a driveway onto Valley Road. He stated that a single straight pull-in space could be accommodated with the turn-around area being located in the area currently proposed for the parking space closest to Valley Road. He further stated that an effort to provide a turn-around area must be demonstrated to the County. He also stated that the County does not permit curb cuts in excess of 15 feet for residential properties.

Mr. Maneri stated that the survey of the property at the time the Sailer's became the owners, did indicate that the driveway was split by the property line. He stated that a search of the property records did not reveal any prior easements. He further stated that the circumstances of the Sailer's case eliminated the possibility of claiming adverse possession.

Mr. Sailer stated that the utility company responsible for the utility pole in front of their house has confirmed that the pole can be relocated to accommodate the new driveway.

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

Chair Harrison called for public comment.

Kevin LaCarrubba, 49 Brunswick Road, was sworn. He stated that he has lived at 49 Brunswick Road since August of 2001. He stated that the previous owner of the property had sent a permission letter to the Sailers in July of 2000 indicating that the Sailer's use of the driveway portion on 49 Brunswick Road is a neighborly accommodation. He further stated that after he obtained ownership of 49 Brunswick Road, his attorney had sent a similar letter to the Sailers, dated October 10, 2001, requiring them to sign off on an acknowledgement that the entire driveway did not belong to them and that the use of the entire driveway is being provided to them as a neighborly accommodation. He also stated that since no response was received, a second letter was sent to the Sailers on November 12, 2001 serving them with notice that they could no longer park on the property at 49 Brunswick Road. Mr. LaCarrubba stated that he is planning to install a fence on the dividing property line and that he is concerned that the fence may be damaged if the proposed plan requires vehicles to maneuver over the property line.

The Board questioned Mr. LaCarrubba.

Mr. LaCarrubba stated that the Sailers never offered to purchase a strip of land from his property to widen their driveway.

Karen De Wilde Morales, 225 Valley Road, was sworn and stated that the absence of off-street parking on the Sailer's property will hurt their property value which will in turn hurt the surrounding property values, that she has no objection to aesthetic characteristics of front yard parking, that off-street parking frees up curb space and improves traffic safety on Valley Road and provides emergency vehicles with space to place their vehicles in the immediate area, and that she knew the previous owner and that traditionally, the two properties shared the driveway, so the Sailers could not have known that they could potentially have no parking on the property.

Karen Appuzzo Langton, 155 North Mountain Avenue, was sworn and stated that traffic safety is improved by providing parking on the property, and that property values are also improved with off-street parking, and that she has noticed many properties that presently have front yard parking areas in the surrounding area.

Mr. Maneri addressed the correspondence received from Mr. LaCarrubba's attorney.

Marked into evidence was:

A-3 November 26, 2001 letter from Maneri and Maroules, L.L.C. to James J. McDonald, Esq.

A-4 November 27, 2001 letter from Maneri and Maroules, L.L.C. to James J. McDonald, Esq.

Mr. Palus stated that a single space with a turn-around area would substantially increase the maneuverability of the vehicle and would also allow for the existing mature tree in the front yard to remain.

Mr. Maneri stated that the offer for an easement was clearly rebuffed by the owner of 49 Brunswick Road. He also stated that the initial offer from the LaCarruba's did not offer the Sailer's parking rights.

Marked into evidence was:

O-1 October 10, 2001 letter from Bannon, Rawding, McDonald & Mascera, P.A. to David and Anne Sailer

O-2 November 12, 2001 letter from Bannon, Rawding, McDonald & Mascera, P.A. to David and Anne Sailer

Mr. Palus stated that the County requires 10-foot by 15-foot turn-around area and that the proposed turn-around area is deficient in size. He further stated that even with providing a turn-around area, a vehicle not backing out of this driveway is highly unlikely.

The Board discussed the application.

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

1. The parking area shall be designed in strict accordance with the revised variance plan prepared by Mark A. Palus, dated April 11, 2002.
2. The areas not designated as asphalt on the variance plan prepared by Mark A. Palus, dated April 11, 2002, shall remain unpaved.

Chair Harrison announced that postponement of the variance application of **Michael and Lauren Zichelli, 119 Chestnut Street**, to the May 15, 2002 meeting at the request of the applicant and that no further notice would be given.

Chair Harrison called the variance application of **Mr. and Mrs. Stuart Mayer, 14 Kenneth Road**. Maureen and Stuart Mayer, owners and applicants, and Karen Luongo, project architect for the applicants were sworn.

Mrs. Mayer stated that their home needs more space to accommodate their growing family.

Ms. Luongo described her qualifications as an architect.

Marked into evidence was:

- A-1 Sheet SP-1 on a board, with color, prepared by Kapuscinski Luongo Architects, dated April 3, 2002.

Ms. Luongo described the applicants' property and the proposed plans. She stated that the proposed plans meet every bulk setback requirement with the exception of the required front yard setbacks along the street frontages of Kenneth Road and Windermere Road. She stated that the existing front yard setbacks of the Mayer's dwelling are non-conforming and that the proposed front yard setbacks do not encroach further into these front yards. She also stated that at the Windermere Road frontage there is a significant grade change from the Mayer's property down to the street. She further stated that the property adjacent the applicant's property along Kenneth Road is an irregularly shaped lot with an irregularly placed dwelling on the lot.

Marked into evidence was:

- A-2 Photo-board depicting the existing conditions at 14 Kenneth Road, prepared by Karen Luongo.

Ms. Luongo described the floor plans of the proposed additions.

Marked into evidence was:

A-3 Revised elevations, on a board, prepared by Kapuscinski Luongo Architects, dated April 10, 2002.

Ms. Luongo described the existing topographic conditions and landscaping and natural vegetation on the property. She stated that the placement of the existing structure on the property is an existing condition which represents a hardship to the applicants. She continued by describing alternative designs and stated that if the proposed addition at the northwesterly corner of the dwelling were moved back to meet the required front yard setback at Kenneth Road, it would be a greater detriment to the adjacent neighbor along Kenneth Road. She further stated that the adjacent neighbor along Windermere would be similarly affected if the proposed addition at the rear of the existing dwelling were shifted further back from Windermere Road. Ms. Luongo stated that an effort was made to locate minimally used portions of the additions at locations where the front yard setbacks are the least.

Marked into evidence was:

A-4 Sheet SP-3, on a board, prepared by Kapuscinski Luongo Architects, dated April 10, 2002.

Ms. Luongo stated the front yard setback of the adjacent property along Kenneth Road is not indicative of the typical front yard setback of the homes in the neighborhood. She stated that the plans as proposed are the best alternative and do not pose a detriment to the neighborhood.

The Board questioned the Ms. Luongo.

Ms. Luongo stated that the bottom two stairs of the proposed exterior stairway at the southeasterly corner of the dwelling would project over the existing sanitary and storm sewer easement on the property. She further stated that the stairway could be constructed without causing any detriment to the easement. She stated that the easement is likely deep below grade and would not be affected by the footings of the stairway. She continued by stating that the stairway was placed in the location shown because it is the most convenient location in relation the location of the garage and driveway.

Marked into evidence was:

A-5 Photo of home located at 14 Kenneth Road, taken by Karen Luongo

Ms. Luongo stated that the applicants would seek approval from the Engineering Department for the proposed location of the stairway. She further stated

that the applicants would be willing to relocate that stairway to the rear yard side of the mudroom if the proposed location was not approved.

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

Chair Harrison called for public comment.

Grant Gille, Esq., stated that he was representing Robert and Joyce Mims, of 15 Windermere Road, which is adjacent to the applicants' home. Mr. Gille stated that his clients are concerned that underground water courses which feed Yantacaw Brook and the sanitary and storm sewer easement may be affected by the applicants proposal and that on behalf of his clients he would urge that approval of the application be conditioned by requiring the review and approval of the appropriate parties concerning these issues.

The Board discussed the application.

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

1. The proposed exterior stairway located at the southeasterly corner of the dwelling which projects partially over the existing sanitary and storm easement be approved by the Township Engineer.

Chair Harrison called the variance application of **Shailendra and Priya Ghorpade, 11 Mulford Lane**. Grant Gille, Esq. appeared as attorney for the applicants. Mr. Gille described the application and the variance request. He stated that no use variance is requested. Mr. Gille stated that the project architect was not available to provide expert testimony, therefore he would present Roger Schlicht, Architect, to provide expert testimony on the proposed plans, as well as Lisa Sabatino, an architectural assistant who worked on the project with the project architect, William G. Brown, and may testify if necessary.

Marked into evidence was:

A-1 Architectural Plans, prepared by William G. Brown Architects, dated October 8, 2001

Mr. Gille called Roger Schlicht, Architect, who was sworn. Mr. Schlicht presented his qualifications as an architect. He stated that he has reviewed the proposed plans, met with the architect and staff who prepared the plans, and visited the site. Mr. Schlicht described the proposed floor plans. He also stated that a portico would be added where there is an existing front porch and steps. He stated that the proposed portico is an open structure consisting of two columns and a roof over the porch and that it would add architectural identity and significance to the front entry. He stated that because the portico is an open structure and not a closed interior space it

would not affect the front yard setback requirements. He stated that the main component of the portico is the roof, which ties in to the architectural identity of the proposed structure. Mr. Schlicht continued by stating that a new deck is proposed at the rear of the dwelling and that the new deck conforms to the rear yard setback requirements and replaces the existing deck, which has a nonconforming rear yard setback.

Mr. Schlicht stated that the existing foundation of the house would remain and that only windows and doors would be modified within the exterior basement walls. He continued by stating the floor decking of the first story would remain intact and at the same elevation and that most, if not all of the first story walls would be removed. He described the proposed elevation of the dwelling and stated that the proposed elevation is consistent with the dwellings in the immediate area.

Mr. Schlicht stated that the proposed front yard setback is consistent with the existing front yard setbacks of dwelling on the street. He further stated that increasing the setback would disrupt the streetscape and would trigger a rear yard setback problem.

The Board questioned the Mr. Schlicht.

Mr. Schlicht stated that the portico projects 3 feet closer to the front property line than the furthest encroachment of the existing front wall of the dwelling.

Secretary Sammet stated that the front yard setback should be measured from the columns of the portico.

Mr. Schlicht stated that the portico was designed to fit over the existing concrete slab of the front porch. He further stated that the proposed front yard setbacks along the front are 38.85 at the right front corner of the dwelling, 35.48 to the portico, 42.09 at the existing left front corner of the dwelling, and 42.26 to the left front corner of the addition.

Mr. Gille called Lisa Sabatino, Associate Architect at William G. Brown Architects, who was sworn. Ms. Sabatino stated that she worked with the applicants and the project architect on the design.

Chair Harrison stated that Ms. Sabatino should only provide testimony concerning design decisions based on discussions with the applicants.

Ms. Sabatino stated that the design of the portico is in keeping with the Italianate style of the proposed dwelling and the style and design of many homes in the area.

Mr. Schlicht stated that the existing stairway and concrete porch where the proposed portico is to be built over are intended to remain.

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

Mr. Gille called Peter Meyer, Professional Engineer and Professional Planner, who was sworn.

Marked into evidence was:

A-3 Site Analysis, on board, prepared by PPE Professional Planning and Engineering Corporation, dated April 10, 2002

A-4 Neighborhood Assessment, prepared by PPE Professional Planning and Engineering Corporation, dated April 10, 2002

Mr. Meyer stated his qualifications as a Professional Engineer and a Professional Planner. Mr. Meyer described the existing conditions on the property. Mr. Meyer stated that the existing home is a modest dwelling in comparison to the dwellings in the neighborhood. He stated that the lot has an 18% average slope from Mulford Lane to the rear of the lot and that large trees exist in the rear yard. He also stated that lot is relatively shallow in depth, thus producing both an existing nonconforming front yard and nonconforming rear yard. He further stated that the proposed rear yard would be in compliance and that the side yard setback requirements are also met.

Mr. Meyer stated that the proposed residence is designed as a suitable dwelling for 20th century living and is more in keeping with the dwellings in the neighborhood. Mr. Meyer described the proposed front yard setback for the applicants' dwelling and the front yard setbacks of the other dwellings fronting on Mulford Lane and stated that these front yard setbacks are generally 40 feet or less. He stated that his measurements of the setbacks of the existing dwelling differed slightly than those of the architect. He further stated the proposed residence is a benefit to the community and represents a major investment in the property. He continued by stating that the proposed use, style, and size of the dwelling are all compatible with the area. Mr. Meyer also stated that the proposed plan does not increase the impervious surface coverage on the property or disturb the steep slope terrain. He further stated that the impact of the portico on the front yard setback is negligible and that he recommends that the portico be approved because it improves weather protection at the front entrance and adds aesthetic value to the front of the home.

Mr. Meyer stated that as a Professional Planner, his assessment is that the benefits of the application outweigh the detriments and that the front yard setback variance could be granted without impairing the purpose and intent of the Master Plan and the Zoning Ordinance. He also stated that as a Professional Engineer, his assessment is that the lot is a stable slope and that he concurs with all of the comments of the Board Engineer's letter dated April 8, 2002.

Mr. Meyer stated that a Steep Slope Plan providing all topographic

information as required by ordinance is under preparation and will be submitted for review prior to seeking any building permits. He stated that the comments of the Board Engineer's letter dated April 8, 2002 will be reflected on the plan.

The Board questioned Mr. Meyer.

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

Chair Harrison called for public comment.

Stephen Aspero, 10 Mulford Lane, was sworn. Mr. Aspero stated his support for the application and stated that the proposed plans are a significant improvement to the property.

Robert Kramer, 18 Mulford Lane, was sworn and stated that his construction company would be managing the proposed construction on the applicants' property. He stated that the bottom treads of the front stairway might need to be removed during construction.

The Board discussed the application.

On motion by Mr. Chapman, seconded by Mr. Haizel, the application was approved, subject to the following conditions:

1. The applicant shall comply with comments 1, 3, and comment 4 as corrected, of the Board Engineer's letter dated April 8, 2002.
2. The portico at the front of the dwelling shall be built no closer than 35 feet to the front property line.
3. The northerly addition shall be built no closer than 40 feet to the front property line.

On motion by Mr. Chapman, seconded by Mr. Haizel the meeting was adjourned.