

MINUTES OF THE BOARD OF ADJUSTMENT
April 23, 2003

PRESENT: Chair Harrison, Ms. Cockey, Mr. Gallardo, Mr. Haizel, Ms. Rock-Bailey, and Mr. Susswein; also, Mr. Sullivan, Esq., Mr. Sammet, Secretary, and Mr. Charreun, Assistant Secretary

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

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. Gallardo, seconded by Mr. Haizel, the **Minutes of the March 12, 2003** special meeting were adopted as modified.

On motion by Mr. Gallardo, seconded by Mr. Haizel, the **Minutes of the March 19 2003** regular meeting were adopted as modified, Ms. Rock-Bailey abstaining.

On motion by Mr. Gallardo, seconded by Mr. Haizel, the following Resolution memorializing the approval of the site plan and variance application of **Montclair Radiological Associates, P.A., 114 and 116 Park Street** was adopted as modified, Mr. Susswein abstaining:

WHEREAS, Montclair Radiological Associates, P.A., as owner, did make application to the Board of Adjustment of the Township of Montclair to construct a one-story connection between the buildings at 114 and 116 Park Street and redesign an existing parking area on property designated at Lots 5 and 6 in Block 2305 on the Township Tax Map and located in the R-3 Garden Group 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* to permit the conversion of the building at 114 Park Street to a medical office which is not a permitted principal use pursuant to Montclair Code Section 347-53.

2. A variance pursuant to *N.J.S.A. 40:55D-70d* to permit construction of the building addition to connect the two medical offices which constitutes an enlargement of the preexisting nonconforming medical office use at 116 Park Street contrary to Montclair Code Section 347-112.

3. A variance pursuant to *N.J.S.A. 40:55D-70c* to allow a parking area with 22 parking spaces where a minimum of 62 parking spaces is required pursuant to Montclair Code Section 347-101.

4. An exception to permit undersized angled parking stalls contrary to Montclair Code Section 281-9B.

5. An exception to permit less than the required 24 foot aisle width pursuant to Montclair Code Section 281-9D(1).

6. An exception to permit less than the required minimum driveway width of 12 feet pursuant to Montclair Code Section 281-9I.

WHEREAS, the applicant submitted a site plan, floor plans and elevations prepared by The Mylan Group, revised through October 10, 2002 as well as a property survey prepared by Alfred J. Clark, Inc. dated August 13, 1992, revised May 29, 2002; and

WHEREAS, this matter came on to be heard at a special meeting of the Board of Adjustment held on March 12, 2003 at which time it was established that notice was properly published and that property owners within 200 feet of 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 a two and one-half story building located at 114 Park Street and a one-story medical office building at 116 Park Street with a parking area containing 23 parking stalls at the rear of the two buildings.

2. The one-story building at 116 Park Street has been utilized as a medical office for approximately 50 years and is a lawful preexisting nonconforming use since a zoning amendment took effect in 1986.

3. The building at 114 Park Street was utilized as a two-family use prior to 1979. Sometime around 1979-1980, the building was converted to administrative offices (no patient visits) in connection with the medical office use at 116 Park Street. The applicant was unable to prove required municipal approvals were obtained in connection with the conversion.

4. The office use of the building at 114 Park Street was a permitted use prior to 1986.

5. Approval of this application will not increase hours of operation, number of employees or patients and thus no increase in intensity of use will result.

6. The proposed improvements include barrier-free access which represents a public benefit.

7. The proposed one-story building connector is set back so as to minimize visual impact on the neighborhood.

8. The testimony established the parking is adequate for the use and it is not feasible to provide any additional parking spaces.

9. The aisle, driveway and compact car parking stall widths are appropriate based upon structures lawfully existing on the site and are functionally adequate for the proposed use.

10. Based upon the Board's particular knowledge of local conditions, the within application is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

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

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship 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 *N.J.S.A. 40:55D-70c(1)*; and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment and would not cause 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

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Montclair Radiological Associates, P.A. for site plan, variances and exceptions is hereby approved subject to the following conditions:

1. The angled parking spaces reserved for compact vehicles shall be delineated as such in compliance with Montclair Code Section 281-9E.
2. No more than fourteen patients shall be on site at any one time.
3. No more than two doctors shall be on site at any one time.

4. No more than twenty employees (exclusive of doctors) shall be on site at any one time.

5. Patient visits at 114 Park Street shall be prohibited.

6. Hours of operation shall not exceed Monday, Tuesday, Thursday, 8:30 a.m. to 7:00 p.m.; Wednesday, Friday, 8:30 a.m. to 5:00 p.m.; and Saturday, 7:30 a.m. to 1:00 p.m.

7. The curb detail shall be revised to indicate a depth of 18 inches in accordance with the Board of Adjustment Engineer's memo dated October 23, 2002.

8. The applicant shall take the necessary steps to ensure the parking lot is not being regularly utilized for parking outside of business hours.

9. The applicant shall pay any required development fees to the Montclair Housing Trust Fund in accordance with Montclair Code Section 202-39 *et seq.*

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. Gallardo, seconded by Mr. Haizel, the following Resolution memorializing the approval of the variance application of **Verizon, New Jersey, Inc., 80 Glenridge Avenue** was adopted:

WHEREAS, Verizon, New Jersey, Inc., did make application to the Board of Adjustment of the Township of Montclair to install a telecommunications equipment cabinet on property designated as Lot 5 in Block 4202 on the Township tax map and located in the UR Urban Renewal Zone; and

WHEREAS, the applicant sought a variance pursuant to *N.J.S.A. 40:55D-70d* as the proposed telecommunications equipment cabinet is not permitted pursuant to Montclair Code Section 347-100; and

WHEREAS, the applicant submitted a site plan, landscape and construction plan prepared by Innovative Engineering, Inc. dated November 26, 2002; and

WHEREAS, this matter came on to be heard at a special meeting of the Board of Adjustment held on March 12, 2003 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 application contemplates installation of a telecommunications equipment cabinet at grade level within an easement located near the northeasterly corner of the subject property.

2. The proposed cabinet measures approximately 4 feet high, 7 feet long and 28 inches wide and would be located on a new concrete pad 6 inches above grade level.

3. The telecommunications equipment cabinet will replace two or three antiquated cabinets in the area and will provide customers with enhanced service which represents appropriate municipal action consistent with the purposes of the Municipal Land Use Law.

4. Based upon lot size and shape and existing improvements, the proposed site is particularly suited for the installation of the cabinet.

5. The testimony established the cabinet cannot be located under ground as the cables must be readily accessible.

6. As part of the application, a number of plantings are proposed to shield the cabinet from view which minimizes the visual impact on the neighborhood.

7. Based upon the Board's particular knowledge of local conditions, the within application is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

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 Verizon, New Jersey, Inc., for a variance to install a telecommunications equipment cabinet is hereby approved subject to the following condition:

1. The applicant shall pay any required development fees to the Montclair Housing Trust Fund in accordance with Montclair Code Section 202-39 *et seq.*

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. Gallardo, seconded by Mr. Haizel, the following Resolution memorializing the denial of the variance application of **Verizon, New Jersey, Inc., 50 Montclair Avenue** was adopted:

WHEREAS, Verizon, New Jersey, Inc., did make application to the Board of Adjustment of the Township of Montclair to install a telecommunications equipment cabinet on property designated as Lot 17 in Block 3308 on the Township tax map and located in the R-1 One Family Residential Zone; and

WHEREAS, the applicant sought relief as follows:

1. A variance pursuant to *N.J.S.A. 40:55D-70d* as the proposed telecommunications equipment cabinet is not permitted pursuant to Montclair Code Section 347-43;
2. A variance pursuant to *N.J.S.A. 40:55D-70c(2)* to allow less than the required 6 foot rear yard setback pursuant to Montclair Code Section 347-46A(3);
3. A variance pursuant to *N.J.S.A. 40:55D-70c(2)* to allow the proposed cabinet to be located in the front yard which is not permitted pursuant to Montclair Code Section 345-46C.

WHEREAS, the applicant submitted a site plan, landscape and construction plan prepared by Innovative Engineering, Inc., dated November 27, 2002; and

WHEREAS, this matter came on to be heard at a special meeting of the Board of Adjustment held on March 12, 2003 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 application contemplates installation of a telecommunications equipment cabinet at grade level within an easement located near the southwesterly corner of the subject property.
2. The proposed cabinet measures approximately 4 feet high, 7 feet long and 28 inches wide and would be located on a new concrete pad 6 inches above grade level.
3. The proposed location of the cabinet adjacent to Chestnut Street is subject to heavy pedestrian traffic in a very visible location is utterly inappropriate.
4. The applicant failed to prove the proposed site was particularly suited for the proposed use.
5. The applicant failed to prove any purposes of the Municipal Land Use Law would be advanced by the granting of this application.

6. The applicant failed to satisfy the Board that alternative locations had been fully explored which could accommodate the cabinet without the deleterious effects as proposed in this application.

7. Based upon the Board's particular knowledge of local conditions, the within application is inconsistent with the character of the neighborhood and would adversely impact the public good.

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 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 any 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 Verizon, New Jersey, Inc., for a variance to install a telecommunications equipment cabinet 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. Gallardo, seconded by Mr. Haizel, the following Resolution memorializing the denial of the site plan and variance application of **W. Thomas & Kathleen McDonough, 129 Valley Road** was adopted as modified, Mr. Susswein and Ms. Rock-Bailey abstaining:

WHEREAS, W. Thomas McDonough and Kathleen McDonough, as owners, did make application to the Board of Adjustment of the Township of Montclair to convert an existing building into law offices located at 129 Valley Road and designated as Lot 41 in Block 1509 on the Township Tax Map and located in the N-C Neighborhood Commercial Zone; and

WHEREAS, the applicants sought relief as follows:

1. A variance pursuant to *N.J.S.A. 40:55D-70d* as the proposed use is not permitted pursuant to Montclair Code Section 347-90D.

2. An exception to allow parking stalls with less than the required 9 foot width pursuant to Montclair Code Section 281-9B.

3. An exception to allow parking area with less than the required landscaping required by Montclair Code Section 281-9G.

4. An exception for less than required aisle widths in the parking area pursuant to Montclair Code Section 281-9D.

5. An exception for less than the required minimum driveway width pursuant to Montclair Code Section 182-9I.

WHEREAS, the applicants submitted a site plan prepared by PPE Corp., dated December 11, 2002, floor plans prepared by Studio Square, Inc., dated July 17, 2002 as well as a property survey prepared by Wells Associates Land Surveying dated April 12, 2002; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on March 19, 2003 at which time it was established the notice was properly published and that property owners within 200 feet of subject property had been properly served with notice; and

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

1. The applicants propose to utilize the first and second floors of the building for nonmedical professional offices, specifically as a law office. The application also contemplates construction of a barrier free ramp and redesign of the parking area to include 7 parking spaces.

2. Nonmedical professional offices, such as the proposed law office, are not permitted in the N-C Zone pursuant to Montclair Code Section 347-90D unless an equivalent amount of floor area in the building is devoted to retail, personal services uses, medical offices, or restaurants.

3. The applicants failed to prove "special reasons" or that any purposes of the Municipal Land Use Law would be advanced by the granting of this application.

4. The applicants failed to prove the proposed site is "particularly suited" for the proposed use.

5. There is nothing particularly unique about this property which is similar in many respects to other properties to the north. The granting of the proposed use variance would set a dangerous precedent with respect to future applications.

6. The applicants failed to offer any proof that the proposed use is not inconsistent with the intent and purpose of the Master Plan.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicants 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.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair, that the within application of W. Thomas McDonough and Kathleen McDonough is hereby denied.

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

On motion by Mr. Gallardo, seconded by Mr. Haizel, the following Resolution memorializing the approval of the minor subdivision and variance application of **Damon Stinson, Jr., 71-73 and 75-77 Forest Street** was adopted, Ms. Rock-Bailey abstaining:

WHEREAS, Damon Stinson, Jr., as owner, did make application to the Board of Adjustment of the Township of Montclair to subdivide into two lots the property located at 71-73 and 75-77 Forrest Street and designated as Lots 9 and 10 in Block 3203 on the Township Tax Map and located in the R-2 Two-Family Zone; and

WHEREAS, the applicant sought relief as follows:

1. A variance pursuant to *N.J.S.A. 40:55D-70d* as the proposed lots contain four-family dwellings which are not permitted pursuant to Montclair Code Section 347-112; and
2. Variances pursuant to *N.J.S.A. 40:55D-70c* to permit a northeasterly side yard setback on Lot 9 of 4.54 feet and a southwesterly side yard setback of 4.1 feet on Lot 10 where a minimum of 10 feet is required pursuant to Montclair Code Section 347-51C(1); and
3. Waivers to permit lot width of 39.25 feet for each lot where a minimum of 60 feet is required pursuant to Montclair Code Section 301-26; and

WHEREAS, the applicant submitted a minor subdivision plan prepared by Pronesti Surveying, Inc. dated October 24, 2002 and a property survey prepared Richlan, Lupo and Pronesti dated October 9, 1979; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on March 19, 2003 at which time it was established that notice was

properly published and that property owner 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 February 20, 1980, the Board of Adjustment granted site plan approval and variances to convert two two-family dwellings into two four-family dwellings on the subject property.

2. Although the property has been assessed as two separate tax lots, it is undersized and in common ownership and has merged by operation of law.

3. No physical changes are proposed to either the multi-family dwellings or the site and the purpose of the subdivision is to reestablish the property as two separate lots.

4. Approval of this application will bring the property closer to conformance with the zoning ordinance which mandates no more than one principal building per lot.

5. Based upon the Board's particular knowledge of local conditions, the reestablishment of the prior lot lines is not inconsistent with the character of the neighborhood and will not adversely impact the public good

6. The Board determined that based upon the 1980 approval and the uniqueness of this application, approval of the subdivision is not inconsistent with the intent and purpose of the master 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

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship 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 *N.J.S.A. 40:55D-70c(1)*; and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment and would not cause 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

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Damon Stinson, Jr., for subdivision and variance approval is hereby approved subject to the following conditions:

1. A cross-easement for driveway access for the two lots shall be approved by the Board attorney and recorded in the Essex County Register's Office.
2. The applicant shall obtain Essex County Planning Board approval.
3. The applicant shall comply with the conditions of the 1980 approval not inconsistent herewith.

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 **Discussion of the 2002 Board of Adjustment Annual Report**. The Board reviewed the proposed revisions to the report.

On motion by Mr. Gallardo, seconded by Mr. Haizel, the **2002 Annual Report of the Board of Adjustment** was adopted as modified.

Secretary Sammet announced the withdrawal of the minor subdivision and variance application of **BJM Construction, Inc., 99 Willowdale Avenue**, at the request of the applicant.

Chair Harrison called the variance application of **Kevin & Christin McManus, 29 Brunswick Road**. Kevin and Christin McManus, owners, were sworn and described the proposed driveway and parking area. Ms. McManus stated that the existing driveway and parking area are located in the backyard, that there is not adequate space in the backyard for recreational use and that the proposed driveway and parking area would be constructed in the Central Avenue front yard of their property. Mr. McManus stated that the owner of the property that abuts the existing driveway and parking area is present at the hearing to express support for their proposal. Ms. McManus stated that the purpose of the proposed driveway and parking area relocation is to create a usable backyard that would provide a safe recreation area for their family.

Marked into evidence was:

- A-1 Photoboard of the subject property, prepared by the applicants
- A-2 Landscape Plan, on a board, prepared by O'Boyle Landscaping, Inc., dated March 3, 2003

A-3 Photoboard depicting the front yard parking located at 109 North Mountain Avenue and 108 Bellevue Avenue, prepared by the applicants

Mr. McManus stated that the photographs on Exhibits A-1 and A-3 were taken within the last week and described the proposed driveway and parking layout. Ms. McManus stated that a 4½-foot tall fence is proposed along the Central Avenue frontage to screen the parking area from view. She also described properties in Montclair that have a similar parking arrangement.

The applicants called the owner of the adjoining property on Central Avenue.

Kathryn Richards, 116 Central Avenue, was sworn and stated her support for the applicants' proposal.

Mr. McManus stated that the proposed driveway and parking relocation would be an upgrade to their property and would not have a negative effect on the neighborhood.

The Board questioned the applicants.

Ms. McManus stated that at least 1 tree, and possibly a second, the Japanese Maple, would be removed to accommodate the driveway and parking area. She also stated that the Japanese Maple would be moved to another location if possible.

Secretary Sammet stated that the Township Engineer has informed the Planning Department that any proposed curb openings would have to be at least 25 feet from the curb at the corner of the intersection.

The applicants stated that the existing hedge along the Central Avenue frontage of their property would be removed and that new landscaping is proposed in the same location. The applicants also stated that they would consider having both of the proposed curb openings on Central Avenue and no curb opening on Brunswick Road. The applicants continued by describing the land uses of the properties in the vicinity of their property.

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

Chair Harrison called for public comment. None was offered.

Mr. McManus summarized the application and stated that the existing driveway and parking area layout is not conducive to raising a family.

The Board discussed the application.

On motion by Mr. Susswein, seconded by Ms. Rock-Bailey, the variance application was approved, Mr. Gallardo voting in the negative, subject to the following conditions:

1. The plan shall be modified so that both curb openings for the proposed driveway are located on Central Avenue and are at least 25 feet away from the curb at the intersection of Brunswick Road and Central Avenue.
2. The applicants shall install fencing and landscaping as depicted on Exhibit A-2 along the Central Avenue frontage in order to screen the proposed parking area from public view.

Chair Harrison called the variance application of **Michael Anthony Sign & Awning Co., 565 Valley Road**. Renu Shevade, Esq. appeared as attorney for the applicant, and described the application. Ms. Shevade described the variances requested and stated that the 4 proposed wall-mounted signs meet the size requirements of the zoning ordinance. Ms. Shevade called Michael Bradley, of Michael Anthony Sign & Awning Co., who was sworn. Mr. Bradley stated that his sign company handles signage installation for the CVS/pharmacy chain in New Jersey.

Marked into evidence was:

- A-1 Elevation drawing of the commercial building on the subject property depicting the permitted sign location band for wall-mounted business signs

Mr. Bradley stated that the existing façade of the commercial building prohibits the proposed wall-mounted signs to conform to the required mounting height and that the proposed signs would be within the existing storefront windows if mounted at conforming heights on the façade. He also stated that the wall-mounted sign proposed for the southerly side wall of the building faces a private parking lot on the subject property and is useful for the CVS pharmacy located on the property because it provides visibility of the business for northbound vehicles on Valley Road. He further stated that the 2 wall-mounted signs reading "CVS/pharmacy" would be externally illuminated with gooseneck light fixtures and that the proposed sign mounting heights and locations are appropriate for the commercial building.

The Board questioned Mr. Bradley.

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

Chair Harrison called for public comment. None was offered.

Ms. Shevade summarized the application and stated that the applicant and commercial tenant are doing their best to conform to the zoning requirements.

The Board discussed the application.

On motion by Mr. Gallardo, seconded by Mr. Haizel, the requested variances for the wall-mounted signs reading "CVS/pharmacy" were approved and the requested variances for the wall-mounted signs reading "1 Hour Photo" and "Food Shoppe" were denied.

Chair Harrison called the variance application of **Gale Britton, 7 Berkeley Place**. Calvin Trevenen, Esq. appeared as attorney for the applicant and described the application. He stated that the subject property is a corner lot and that existing dwelling has a nonconforming front yard setback on the Edgemont Road.

Mr. Trevenen called Gale Britton, who was sworn and stated that she has been the owner of the property since 1987. She described the existing floor plans and the proposed plans and stated that the proposed addition and deck would provide additional living space and leisure space for her family. She also stated that she had discussed the proposed plans with the adjacent neighbor on Edgemont Road as well as the property across the street from her property and that there are no objections.

The Board questioned the applicant.

Mr. Trevenen called Paul Newman, Architect, who was sworn and stated his qualifications.

Marked into evidence was:

- A-1 Reduced set of plans, including the site plan, floor plans, and elevations, in color, prepared by Paul Newman, RA Architect, dated November 24, 2002
- A-2 Photoboard of the subject property

Mr. Newman described the proposed addition and deck and stated that the architectural style matches the existing style of the dwelling. He described the existing floor plans and stated that the existing living room and screened porch are long, narrow rooms that are difficult to use, that the proposed addition would contain a family room and that the outdoor deck would provide leisure space. Mr. Newman stated that the required front yard setback in the Edgemont Road front yard is 33 feet and ½-inch based on the average front yard setback of the 2 nearest dwellings on Edgemont Road. He also stated that the existing screened porch on the property has a front yard setback of approximately 18 feet 1 inch from Edgemont Road and that the proposed outdoor deck would not encroach any further than 18 feet 1 inch into the Edgemont Road front yard. He further stated that the proposed addition would be setback 33 feet 6 inches from Edgemont Road, which is conforming by approximately 5½ inches. Mr. Newman continued by stating that wall mounted scone lights would be utilized at the outdoor deck and that those fixtures would be soft lights that are shielded. He also stated that

the curvature of Edgemont Road reduces the impact of the visibility of the proposed addition and deck.

The Board questioned Mr. Newman.

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

Mr. Trevenen called Roger DeNiscia, Professional Planner who was sworn and stated his qualifications. Mr. DeNiscia described the application.

Marked into evidence was:

A-3 5 Photographs of the subject property, the site plan, and a Sanborn Map of the area, mounted on a board, prepared by Roger DeNiscia, P.P.

Mr. DeNiscia described the subject property and the existing front yard setback in the Edgemont Road front yard and stated that the property is not overdeveloped and has low lot coverage. He also stated that the interior square footage of the home is also relatively low and stated that the proposed addition and deck are an improvement to the dwelling. Mr. DeNiscia further stated that the proposed addition does not require a variance and that the outdoor deck is open structure that does not impede visibility and is a functional and aesthetic element to the proposal.

Mr. DeNiscia stated that the Board could grant the requested bulk variance because the proposal represents planning benefits and is not detriment to the public good. He stated that the site is already developed, that the proposal is a small increase in lot coverage, and that the proposal is a typical residential improvement. He also stated that the granting of the application would not impair the intent and purpose of the Master Plan and zoning ordinance and continued by describing conditions particular to the site.

The Board questioned Mr. DeNiscia.

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

Chair Harrison called for public comment. None was offered.

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 condition:

1. The proposed outdoor deck shall not be constructed closer than 18 feet 1 inch to the front property line along Edgemont Road.

Chair Harrison called the variance application of **Homes of Montclair Ecumenical Corp., 34 New Street**. Ms. Cockey recused herself for this application. David Conrad, Esq., appeared as attorney for the applicant and described the application. Mr. Conrad called Barbara Brown, Office Manager and Property Manager for Homes of Montclair Ecumenical Corp. (Homecorp), who was sworn. Ms. Brown stated that she has been working for Homecorp since 1990 and described the history, purpose, and activities of Homecorp as a non-profit affordable housing agency. She stated that Homecorp is very active in the area of the New Street property and has offered 16 homes and 22 rental units as affordable housing for low and moderate income families over the years. Ms. Brown also stated that Homecorp would offer the proposed dwelling at 34 New Street as an affordable home, priced below market value.

The Board questioned Ms. Brown.

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

Mr. Conrad called Martin Dassa, Architect and Professional Planner, who was sworn and stated his qualifications. Mr. Dassa described the application and the characteristics of the property and the neighborhood. He stated that the subject property is presently vacant and contained a home at some time in the past that has since been demolished.

Marked into evidence were:

A-1 Large aerial photograph of the area, on a board.

A-2 A Sanborn Map, Tax Map, and 4 photographs of the subject property, on a board, prepared by Martin Dassa, AIA, PP

Mr. Dassa stated that the property was given to Homecorp by a benefactor. He described the size of the property and continued by describing the width and overall size of the properties in the area. He stated that the property is an isolated lot and that the nonconforming lot width is an existing condition. He also stated that the proposed dwelling offers the best use of the vacant lot and that the dwelling was designed to be sensitive to the adjacent properties. Mr. Dassa described the proposed setbacks of the new dwelling.

A-3 Site Plan, on a board, prepared by Dassa Haines, Architects, dated November 18, 2002

Mr. Dassa described the rear deck at the second level of the house. He stated that the deck measures 5 feet by 10 feet and is a small amenity for the owner's apartment. Mr. Dassa stated that the first floor dwelling unit contains approximately 794 square feet and that the second floor dwelling unit contains approximately 1,457 square feet. He also stated that the 2 adjacent properties on New Street north of the subject lot have front yard setbacks of approximately 6 feet and 7 feet and that the adjacent

property to the south is a corner lot on Fulton Street. Mr. Dassa continued by describing the proposed on-site parking and stated that the front yard parking on the driveway of an attached garage is a common occurrence and that the on-site parking as proposed by the application is the most suitable for the property and represents an important amenity. Mr. Dassa described the exterior of the proposed dwelling and stated that the design of the dwelling would improve the area and blends in well with the surroundings.

Mr. Dassa stated that the applicant cannot conform to the lot width requirement and that the required setbacks would seriously compromise the design and floor plans of the dwelling. He also stated that the proposal would not be a detriment to the public good and would not have a negative impact on the Master Plan and zoning ordinance.

The Board questioned Mr. Dassa.

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

Chair Harrison called for public comment. None was offered.

The Board discussed the application.

On motion by Mr. Gallardo, seconded by Mr. Haizel, it was resolved to approve the variance application.

Chair Harrison called the variance application of **Homes of Montclair Ecumenical Corp., 17 Franklin Avenue**. Ms. Cockey recused herself for this application. David Conrad, Esq., appeared as attorney for the applicant and described the application. Mr. Conrad called Barbara Brown, Office Manager and Property manager for Homes of Montclair Ecumenical Corp. (Homecorp), who was still under oath. Ms. Brown stated that the proposed dwelling would not be offered by Homecorp as an affordable home and that Homecorp would sell the proposed dwelling at 17 Franklin Avenue at the market rate. She stated that funding for their agency had been cut and that the profits from the sale of the proposed dwelling would be used to fund other affordable housing projects in Montclair.

Mr. Conrad called Martin Dassa, Architect and Professional Planner, who was still under oath. Mr. Dassa described the subject property and stated that a single-family dwelling is proposed for the vacant lot. He also stated that the subject property was given to Homecorp by a benefactor.

A-1 A Sanborn Map, Tax Map, and 2 photographs of the subject property, on a board, prepared by Martin Dassa, AIA, PP

Mr. Dassa stated that the proposed dwelling meets all of the zoning requirements with the exception of the lot width requirement. He stated that the dwelling would be 3 stories in height and meets the height requirements of the zoning ordinance. He also stated that the average front yard setback of the 4 nearest dwellings, 2 on either side of

the property, does not exceed 25 feet, and therefore the proposed dwelling meets the front yard setback requirement of 25 feet. Mr. Dassa continued by describing the proposed floor plans. He further stated that the proposed dwelling would not overburden the lot, blends in with the neighborhood and that the lot width and size is consistent with the lot sizes in the vicinity. He also stated that the proposed dwelling would not be a detriment to the public good or have a negative impact on the Master Plan and zoning ordinance.

The Board questioned Mr. Dassa.

Chair Harrison called for questions from the public.

Kouros Khoussi, 19 Franklin Avenue, asked why a 60-foot frontage width is required and what the potential impacts of granting a variance for lot width could be.

Chair Harrison called for public comment. None was offered.

The Board discussed the application.

On motion by Mr. Gallardo, seconded by Mr. Haizel, it was resolved to approve the variance application.

On motion by Mr. Susswein, seconded by Mr. Gallardo the meeting was adjourned.