

MINUTES OF THE BOARD OF ADJUSTMENT
May 17, 2000

PRESENT: Chair Harrison, Mr. Fleischer, Ms. O'Connell, , Mr. Tobin, Mr. Williams;
also, Michael Sullivan, Esq., Karen Kadus, Secretary and Donald
Sammet, Assistant Secretary.

ABSENT: Vice Chair Church, Mr. Chapman, Ms. Freundlich, Mr. Spivey.

Ms. Kadus called the roll and announced the regular meeting of the
Montclair Board of Adjustment. Notice had been given in accordance with the Open
Public Meeting Act.

On motion by Mr. Fleischer, seconded by Mr. Tobin, the Minutes of the
April 12, 2000 regular meeting were adopted as modified.

On motion by Mr. Tobin, seconded by Mr. Fleischer, the following Resolution
Memorializing the approval of a variance application of David and Azita Staubach, 12
Argyle Road was adopted.

WHEREAS, David and Azita Staubach, owners of property at **12 Argyle Road**,
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 rear yard setback less than that
required pursuant to Montclair Code Section 244-40D for the construction of an
addition and deck to the primary structure on property designated as Lot 93 in Block
4601 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a survey dated October 7, 1993 and a floor
plan and elevation prepared David and Azita Staubach dated December 11, 1999; and

WHEREAS, this matter came on to be heard at a meeting of the Board of
Adjustment held on April 12, 2000 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 located on the easterly side end of Argyle Road
consists of a 2½ story single-family dwelling.
2. The applicants purchased the property several years ago and now require
additional living space for their growing family.

3. The lot is irregularly shaped and the existing dwelling has a non-conforming rear yard setback of 7.4 feet. The proposed one-story addition will consist of an enlarged kitchen and wood deck which will maintain the 7.4 foot setback.
4. The property abuts Brookdale Park, a County road.
5. In support of the variance, the applicant argued that the addition would be no closer to the rear property line than the existing dwelling wall, the property abuts a park and the existing house is positioned at the rear of the lot.

WHEREAS, the Board, based on 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 N.J.S.A. 40:55D-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 NJSA 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 David and Azita Staubach for a variance pursuant to N.J.S.A. 40:55D-70c to construct an addition and deck is hereby approved, subject to the following conditions:

1. Only the bay window and deck stairs may be closer to the rear property line than the existing wall of the dwelling.

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. Williams, seconded by Mr. Tobin, a one year extension to June 16, 2001 for the variances and site plan approval granted to **Richard and John DiGeronimo, 420 Bloomfield Avenue** was approved at the applicant's request.

Chair Harrison called for the hearing on the application of **Eric Schwimmer and Alyce Gottesman, 28 Clinton Avenue**. Mr. Eric Schwimmer, owner and applicant and Mr. Arturo Palombo of Palombo Architecture LLC were sworn. Mr. Palombo described the proposed two-story addition including first and second floor uses. Mr. Palombo then

stated that new exterior materials used will match those on the existing house. Mr. Palombo described the side yard setback proposed and existing side yard setback of the house. Mr. Palombo also described the proposed deck.

The Board questioned the applicant.

The Board discussed the application. On motion by Mr. Fleischer, seconded by Mr. Williams, it was resolved to approve the variance, subject to the following condition:

1. The addition and deck be no closer to the side yard than the existing house.

Chair Harrison called for the hearing on the application of **Kramer Communities LLC, 61-63 North Mountain Avenue**. Steven Aspero, Esq., attorney for the applicant, stated that due to the presence of only 5 Board members, he wished to postpone the hearing of the application. Chair Harrison stated that a hearing date for Kramer Communities would be scheduled at the May 24, 2000 meeting of the Board of Adjustment.

On motion by Ms. O'Connell, seconded by Mr. Tobin, the meeting was adjourned at 8:08 p.m.