

**MINUTES OF THE BOARD OF ADJUSTMENT
MAY 6, 2002**

PRESENT: Chair Harrison, Vice Chair Fleischer, Mr. Chapman, Ms. Costello, Mr. Gallardo, Mr. Haizel, Ms. Rock-Bailey, Mr. Susswein; also, Mr. Trembulak, Esq., Mr. Sammet, Secretary, and Mr. Charreun, Planning Technician

ABSENT: Ms. Brooks

Secretary Sammet 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 called the continuation of the site plan and variance application of **Union Congregational Church, 169 and 176 Cooper Avenue**. David Owen, Esq., appeared as attorney for the applicant and Paul Jemas, Esq., appeared as attorney for interested parties who are objecting to the site plan and variance application.

Chair Harrison called for public comment.

Wendy McNeil, 20 Northview Avenue, was sworn. Ms. McNeil stated that her son attended nursery school and Sunday school at the Church and that she has been involved in many of the programs at the Church. She stated that she has experienced difficulty finding parking on Cooper Avenue during commercial film shoots. She also stated that the Church and its programs should not be jeopardized.

Ben Mukherjee, 281 Highland Avenue, was sworn. Mr. Mukherjee stated that he is a member of the Montclair Society of Engineers, which utilizes the Church property for meeting space. He stated that the proposed on-site parking would assist the elderly members of the organizations that meet at the Church property.

Bob Brinley, 167 Cooper Avenue, was sworn and stated that he has lived next to the parsonage at 169 Cooper Avenue for 26 years and has never seen parking lots on the property.

Marked into evidence were:

OB-1 Aerial Photograph of Church property, with certification letter, dated March 22, 1979.

OB-2 Aerial Photograph of Church property, with certification letter, dated April 11, 1974.

Mr. Brinley described exhibits OB-1 and OB-2 and stated that the driveways on both of the Church properties were expanded in 1999. He stated that the only purpose the proposed parking areas serve is to remove the inconvenience of on-street parking for the nursery school teachers. He continued by stating that allowing on-site parking lots would create negative impacts to the residential character of the neighborhood.

Mr. Owen cross-examined Mr. Brinley.

Barbara Gregory, 179 Cooper Avenue, was sworn. Ms. Gregory stated that she has lived on Cooper Avenue for 20 years and that her children used to play on the driveway of 169 Cooper Avenue and that there was never a parking lot on that property. She further stated that the Church is trying to increase its revenues and that the proposal does not provide a public benefit.

Don Clark, 175 Cooper Avenue, was sworn and stated that his property abuts 169 Cooper Avenue and that his home is 9 feet from the property line dividing the properties. He stated that the proposed parking lots would forever change and substantially impact the single-family residential character of the neighborhood. He stated that there is more than ample on-street parking and that the area is very walkable. He stated that unrestricted parking exists on Park Street approximately 650 feet away from the Church property. He further stated that the parsonage at 169 Cooper Avenue is a single-family residence and should be treated as such. He continued by stating that the nursery school attendance has increased, dismissal times have become later, and the ancillary programs at the Church have expanded. He stated that the applicant's proposal places an unnecessary burden on the Police Department for controlling the activity in the parking lots and that the Church has existed for many years without off-street parking and could continue to exist without the proposed parking areas.

Mr. Owen cross-examined Mr. Clark.

Janice Russo, 609 Upper Mountain Avenue, was sworn and stated that barrier-free parking spaces should be provided and that the nursery school staff does not need on-site parking. She also stated that to increase safety, the curbside drop-off for school children should only take place on the southerly side of Cooper Avenue. She continued by stating that the applicant's proposal could potentially impact up to 40 residences in the area.

Miriela Roderick, 2 Cornell Way, was sworn and stated that she is the parent of a nursery school student at the Church. She stated that she has experienced difficulty finding parking on Cooper Avenue when dropping off and picking up her child. She stated that the nursery school has never enrolled beyond the legal limit and that the out of town enrollment has never exceeded 30 percent of the total enrollment. She further stated that a lack of vehicular accidents on Cooper Avenue does not necessarily mean that the existing conditions are safe.

Mr. Clark questioned Ms. Roderick.

Ms. Gregory questioned Ms. Roderick.

Pat Aranoff, 10 Crestmont Road, was sworn and stated the single-family residential character of the neighborhood should be preserved.

Ford Burkhart, 219 Alexander Avenue, was sworn and stated that the programs hosted by the Church are an asset to the community. He also stated that visitors to the Church properties are instructed to be considerate to neighbors and that the applicant's proposal would not create any dramatic changes to the area.

Kate McGuire, 182 Cooper Avenue, was sworn and stated that the parents of the nursery school students could park their vehicles on Park Street and walk to the Vincent building to drop off or pick up their children. She also stated that the nursery school staff could park their vehicles further away from the Vincent building to allow parent parking closer to the Vincent building. She stated that the proposed parking areas would not decrease the number of vehicles parking on Cooper Avenue. She further stated that the on-street parking is not a problem to the neighborhood and the applicant's proposal would generate concentrated noise in the parking areas. She stated that barrier-free parking could be provided on the street directly in front of the Church building. She continued by stating that visitors to the Church properties are visitors to the neighborhood and that the needs of these individuals and groups should not override the needs of the residents. She stated that the proposed parking areas reduce property values and are detrimental to the neighborhood.

Ms. Roderick questioned Ms. McGuire.

Joan Icklan, 24 Vera Place, was sworn and stated that the Church encourages visitors to be considerate to neighbors and stated her support for the application.

Jan Hoffman, 193 Cooper Avenue, was sworn and stated that Cooper Avenue is already overly congested with traffic due to the Church, nearby commercial zones, and residences. She stated that the Church is an institution and should bare the burden of accommodating their residential neighbors. She further stated that parking is always available on Cooper Avenue for the nursery school staff and the parents of students and that the walk from Park Street is not an excessive distance. She also stated that barrier-free parking could be provided on the street directly in front of the Church building. She continued by stating that the proposed parking areas would negatively impact the residential character of the neighborhood and that the Church would have difficulty controlling the activity on the lots. She stated that the nursery school staff should obtain permits for on-street parking and that signage should be incorporated to add order and safety to the parking on Cooper Avenue.

Robert Rich, 15 Carolin Road, was sworn and stated his support for the

application. He stated that on-site parking is convenient for the elderly visitors to the property and that the proposed plantings and landscaped berms would reduce the noise created by vehicles in the lot. He also stated that the proposed parking areas are manageable and that the use of the Church property would not change as a result of the on-site parking.

Ms. McGuire questioned Mr. Rich.

Gary Smith, 20 Wellesley Road, was sworn and stated the proposed parking areas would have substantial negative impacts on the residents of the neighborhood and that the only the applicant would benefit from the approval of the application. He stated that there is sufficient parking on the street and that the nursery school has expanded its classrooms and enrollment since 1979 without providing on-site parking. He also stated that the parking areas are a physical expansion of the nonconforming use and that the design of the parking areas does not account for the neighbors concerns. He stated that the parsonage at 169 Cooper is a residential structure and should not be treated as accessory to the main Church property at 176 Cooper Avenue. He continued by stating that he would recommend a maximum of 4 parking spaces in the proposed parking area at 176 Cooper, which would include 2-3 barrier-free parking stalls.

Ms. Roderick questioned Mr. Smith.

Craig Jordan, 115 Summit Avenue, was sworn and stated that he is the parent of a nursery school student at the Church. He stated that nursery school teachers leaving their classrooms to move their vehicles on Cooper Avenue creates dangerous conditions in the school.

Andy McGuire, 182 Cooper Avenue, was sworn and stated that the nursery school staff should seek parking permits for Cooper Avenue that the nursery school staff could then park further away from the Vincent building on Cooper Avenue so that parents could use the nearest curb space to drop-off and pick-up their children. He also stated that barrier-free parking should be provided.

Cynthia Treene, 509 Park Street, was sworn and stated the applicant's proposal would not significantly impact the neighborhood.

Gerald Fierst, 222 Valley Road, was sworn and stated he belongs to a theatre company which utilizes Church space. He stated the Church adds to the cultural fabric and education in the Township and stated his support for the application.

Margaret Ann Tortoriello, 112 Heller Way, was sworn and stated that she has sent 3 of her children to the nursery school at the Church and that parking on Cooper Avenue has always been an problem. She stated that the application makes sense and increases safety and stated her support for the application.

Dick Foster, 474 Park Street, was sworn and stated the interests of the

residents should take precedence over the interests of an institution. He stated that the loop drive should be used as the drop-off and pick-up of the children and that the Church staff should obtain permits to park on the street.

Ms. Roderick questioned Mr. Foster.

Mary Barrington, 162 Cooper Avenue, was sworn and stated that the increase in the level of activity on the Church property has created an increasingly unworkable situation. She stated that the 4-hour parking restrictions on Cooper Avenue were agreed upon between the residents and the Church in lieu of establishing parking lots on the Church property. She stated that the proposed parking areas would be a permanent detriment to the neighborhood while the street parking comes and then goes and that obtaining street parking permits would be the best solution.

Alfred Weller, 187 Cooper Avenue, was sworn and stated that the on-street parking slows down vehicular traffic on Cooper Avenue, which increases traffic safety and that permits to park on the street should be obtained by the Church staff.

Karen Turner, 74 Highland Avenue, was sworn and stated that 3 barrier-free parking spaces should be provided at the curb directly in front of the Church building. She stated that Cooper Avenue never reaches its parking capacity during the drop-off and pick-up of nursery school students and that street parking on Park Street is not an excessive distance from the Church property. She continued by stating that parking lots are dangerous and that the residential character of the neighborhood should be preserved.

Jean Clark, 6 Seneca Place, was sworn and stated parking vehicles on the street in front of residences causes negative impacts and that the proposed off-street parking is an improvement over the current conditions.

Mr. Owen called Robert Tembler, member of the Union Congregational Church, who was sworn. Mr. Tembler stated that he had toured the neighborhood of the Church property and prepared a map depicting the existing multi-vehicle parking lots in residential zones.

Marked into evidence was:

A-34 Area map depicting multi-vehicle parking lots in the vicinity of
The Church property, undated and prepared by Robert
Tembler

Chair Harrison called for questions from the Board for Mr. Tembler.

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

Marked into evidence were:

A-35 Letter brief, prepared by David Owen, Esq., dated May 1, 2002

O-10 Letter brief, prepared by Paul G. Jemas, Esq., dated May 6, 2002

Mr. Jemas delivered his closing remarks.

Mr. Owen delivered his closing remarks and stated that the applicant was no longer seeking a certificate of nonconformity.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Gallardo, the variance requested from **Montclair Code Section 347-101** for more than the permitted number of parking spaces on 169 Cooper Avenue was unanimously denied.

On motion by Mr. Chapman, seconded by Mr. Haizel, the variance requested from **Montclair Code Section 347-112** to allow the expansion of the nonconforming use of the Church at 176 Cooper Avenue was unanimously approved subject to the following conditions:

1. The parking spaces numbered 1, 2, 3, 4, 11, and 12 shall be eliminated from the parking area shown on the plan prepared by Sionas Architecture, P.C., Inc., with a revision date of October 25, 2001.
2. The parking areas shall be paved with hard surface paving.
3. The use of the nursery school classrooms shall be limited to the 7 existing classrooms within the Vincent building.
4. The maximum number of parking spaces on the property at 176 Cooper Avenue shall be 19 spaces.

Chair Harrison announced that the preliminary and final site plan approval application would be heard on June 5, 2002 and that no further notice be given.

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