

MINUTES OF THE BOARD OF ADJUSTMENT
June 18, 2003

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

ABSENT: Mr. Sammet, Secretary, Vice Chair Fleischer, Mr. Flood, and Ms. Rock-Bailey

Assistant Secretary Charreun 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 April 30, 2003** special meeting were adopted, Mr. Susswein abstaining.

On motion by Mr. Gallardo, seconded by Ms. Costello, the **Minutes of the May 21, 2003** regular meeting were adopted as modified Ms. Cockey and Mr. Haizel abstaining.

On motion by Mr. Gallardo, seconded by Ms. Costello, the following Resolution memorializing the approval of the variance application of **Omnipoint Communications, Inc., 630 Valley Road** was adopted, Ms. Cockey and Mr. Haizel abstaining:

WHEREAS, Omnipoint Communications, Inc., did make application to the Board of Adjustment of the Township of Montclair, as amended, to permit five wireless telecommunication panel antennae and equipment cabinets on the roof of property designated as Lot 1 in Block 2601 on the Township tax map and located in the NC Neighborhood Commercial Zone; and

WHEREAS, the applicant requested a variance from *N.J.S.A. 40:55D-70d(3)* for failure to comply with all of the conditional use standards contained in Montclair Code Section 347-17.1C(4); and

WHEREAS, the applicant submitted a site plan, elevations and details prepared by Salient Architects revised through May 1, 2003; and

WHEREAS, this matter came on to be heard at meetings of the Board of Adjustment held on March 12 and May 21, 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. Approval of this application will reduce the total number of wireless telecommunication panel antennae on the roof from six to five.

2. The application complies with all of the conditional use standards contained in the Montclair Township Zoning Ordinance except that two of the panel antennae fail to comply with Section 347-17.1C(4)c in that they exceed the height of the parapet wall.

3. The visual intrusion caused by the antennae exceeding the height of the parapet wall is minimal and will not adversely impact adjacent properties and is not inconsistent with the intent and purpose of the zone plan and zoning ordinance; and

4. Installation of the antennae will improve wireless communication service to the applicant's subscribers as per the applicant's FCC license which constitutes appropriate municipal action in a manner which will promote the public health, safety and general welfare.

5. Based upon size and location of the existing building, the proposed rooftop location of this site is particularly suited for wireless telecommunication antennae.

6. The proposed antennae and equipment cabinets shall comply with all applicable State and Federal regulations for radiation transmission levels.

7. The application does not involve any noise, vibrations, smoke, dust, odors, heat or glare and involves minimal noise and thus will not cause substantial detriment to the public good and is not inconsistent with the intent and purpose of the zone 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

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Omnipoint Communications, Inc., for a variance pursuant to *N.J.S.A. 40:55D-70d(3)* is hereby approved subject to the following conditions:

1. The applicant is permitted a total of five wireless telecommunications panel antennae as shown on the approved plan.

2. The applicant shall implement design option 2 (Plan sheet Z-2).

3. With the exception of the variance granted herein for the height of two of the antennae, the applicant shall comply with the remaining conditional use standards contained in Section 347-17.1C(4).

4. The applicant shall pay a development fee 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 Ms. Costello, the following Resolution memorializing the approval of the variance application of **Eric Esterlis & Norma Ingui, 339 Grove Street** was adopted as modified Ms. Cockey, Mr. Gallardo and Mr. Haizel abstaining:

WHEREAS, Eric Esterlis & Norma Ingui, owners of property at **339 Grove Street**, 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 front yard setback less than that required pursuant to **Montclair Code Section 347-45B(2)** in connection with the construction of a roofed entry porch on property designated as Lot 14 in Block 4506 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicants submitted a property survey prepared by John Cilo Jr. Associates, dated August 14, 1987 and porch plans and elevations, undated, prepared by the applicants, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on May 21, 2003 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 Grove Street and Watchung Avenue and contains a 2-story single-family dwelling and a detached garage.

2. The existing dwelling on the property has a nonconforming front yard setback in the Watchung Avenue front yard of the property of approximately 26.8 feet as measured to the northwesterly corner of the dwelling, which nonconformity is due to the greater average front yard setback of approximately 32 feet of the nearest two dwellings on Watchung Avenue.

3. The applicants' proposal is to construct a roofed entry porch that would extend an additional 8 feet towards Watchung Avenue and have a front yard setback of approximately 21 feet as measured to the northwesterly corner of the new roofed porch.

4. The proposed roofed entry porch would not extend further towards Watchung Avenue than the existing open stairs in the Watchung Avenue front yard of the property and meets all other height and setback requirements.

5. The property contains abundant mature vegetation in the Watchung Avenue and Grove Street front yards, which significantly screens the view of the proposed roofed entry porch from public view.

6. Based upon the board's particular knowledge of local conditions, the proposed roofed front entry porch is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

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 Eric Esterlis & Norma Ingui is hereby approved, subject to the following conditions:

1. All outstanding property taxes shall be paid before the issuance of a building permit.

2. The proposed roofed entry porch shall not be constructed closer to Watchung Avenue than the existing open stairs in the Watchung Avenue front yard of the property.

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

On motion by Mr. Gallardo, seconded by Ms. Ms. Costello, the following Resolution memorializing the approval of the variance application of **Gary and Hilary Walsh, 222 Grove Street** was adopted, Ms. Cockey and Mr. Haizel abstaining:

WHEREAS, Gary and Hilary Walsh, owners of property at **222 Grove Street**, 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 side yard setback less than that required pursuant to **Montclair Code Section 347-46A(2)a** in connection with the installation of 2 central air conditioning units on property designated as Lot 30 in Block 4403 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicants submitted a property survey prepared by Anthony J. Manno, dated June 15, 2001, with the proposed location of the central air-conditioning units indicated by the applicants; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on May 21, 2003 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 an interior lot measuring approximately 11,261 square feet and contains a 2-story single-family dwelling.
2. The applicants' proposal is to install a two ground mounted air conditioning units in the northerly side yard of the property, which would be set back from the northerly side property line approximately 2 feet 5 inches.
3. The applicants demonstrated that there is no other practical location on the property to install the proposed central air conditioning units due to the location of existing driveways and walkways and the size and shape of the existing dwelling.
4. Proper screening of the proposed central air conditioning units would eliminate any potential adverse impact on neighboring properties.

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 Gary and Hilary Walsh is hereby approved, subject to the following condition:

1. A solid wood board fence, not exceeding the height of the central air conditioning units, shall be installed around the proposed central air conditioning units.

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

On motion by Mr. Gallardo, seconded by Ms. Costello, the following Resolution memorializing the determination of the Board regarding the application of **Commerce Bank/North, 94 and 100 Valley Road** was adopted, Ms. Cockey and Mr. Haizel abstaining:

WHEREAS, Commerce Bank/North, did make application to the Board of Adjustment of the Township of Montclair with reference to property designated as Lots 8 and 9 in Block 1402 on the Township Tax Map and located in the OR-3 Garden Apartment and Office Building Zone; and

WHEREAS, the applicant sought relief as follows:

1. An interpretation pursuant to *N.J.S.A.* 40:55D-70b and Montclair Code Section 202-21A(2) as to whether a bank is a permitted use in the OR-3 Zone.

2. An appeal of the Administrative Officer's decision pursuant to *N.J.S.A.* 40:55D-70a and Montclair Code Section 202-21A(1) in the event the Planning Board attorney's decision that a bank is not a permitted use in the OR-3 Zone is deemed to be the Administrative Officer's decision.

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on May 21, 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 applicant initially filed an application for site plan approval with the Planning Board. By correspondence dated February 3, 2003, the Planning Board

Attorney, Alan Trembulak, Esq. advised the applicant that the proposed bank use was not permitted in the OR-3 Zone and consequently, the Planning Board did not have jurisdiction to hear the application.

2. The permitted principal uses in the OR-3 Zone are governed by Section 347-59 which provides in pertinent part:

- B. Business offices and professional offices in buildings not used for residential purposes, provided that:
 - (1) No merchandise is handled or merchandising services are rendered on the premises.
 - (2) Such features as water tanks, cooling towers and bulkheads shall be enclosed within walls of a material and design in harmony with that of the main walls of the building of which they are a part.

Section 347-2 defines general or business office as “a room or group of rooms used for conducting the offices of business, service or industry”.

3. On or about 1988, the Zoning Ordinance was amended to specifically permit banks as permitted principal uses in the N-C Neighborhood Commercial Zone. Section 347-90D provides as permitted uses “business offices, nonmedical professional offices and banks, provided that in the same building there shall be retail, personal service uses, medical offices or restaurants equivalent in gross floor area to at least the gross floor area used for business offices, nonmedical professional offices or banks”.

4. In 1995 the Zoning Ordinance was amended to specifically allow banks as permitted uses in the C-1 Zone pursuant to Section 347-80A(6). The ordinance also allows in the community area of the C-1 Zone and on all but the first floor of the center area of the C-1 Central Business Zone “general, business and professional offices” are permitted uses pursuant to Section 347-80B(3).

5. The Board determined that although the ordinance is not as clear as it should be, past legislative action has evidenced a clear legislative intent to treat banks separately from business offices. As banks are listed as permitted uses in both the C-1 and N-C Zones and are not specifically listed as a permitted use in the OR-3 Zone, the Board determined such a use is not permitted.

6. The applicant argued a bank was a subcategory of a business office and was therefore permitted. The applicant presented testimony that the municipality had previously considered banks as business offices. In light of the legislative intent to treat banks separate and apart from business offices, it would be illogical to consider them as the same rendering the legislation meaningless.

7. The Board is cognizant that on September 17, 2002 Karen Kadus, Planning Director, executed a correspondence prepared by the applicant which concurred that a

bank is a permitted use in the OR-3 Zone. The Board determined it was not bound by such a decision which was incorrect.

WHEREAS, the Board, based on the foregoing findings, concluded that a bank is not a permitted use in the OR-3 Zone and consequently, the applicant's appeal of the decision of the Planning Board attorney is hereby dismissed.

NOW, THEREFORE, BE IT 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 Ms. Costello, the following Resolution memorializing the approval of the site plan and variance application of **Homes of Montclair Ecumenical Corp., 89 Maple Avenue** was adopted, Ms. Cockey and Mr. Haizel abstaining:

WHEREAS, Homes of Montclair Ecumenical Corp., as owner, did make application to the Board of Adjustment of the Township of Montclair to convert existing first floor commercial space located at 89 Maple Avenue into a barrier-free dwelling unit and retain an existing mixed use building at 1 Woodland Avenue which is located on the same lot. Both properties are designated as Lot 13 in Block 4106 on the Township Tax Map and located in the R-2 Two Family Residential 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 a total of 4 dwelling units on the property, which exceeds the maximum permitted residential density in the R-2 Two Family Residential Zone pursuant to **Montclair Code Section 347-47**; and
2. A variance pursuant to *N.J.S.A. 40:55D-70d* to allow two principal buildings on the lot where a maximum of one is permitted pursuant to **Montclair Code Section 347-20**; and
3. A variance pursuant to *N.J.S.A. 40:55D-70c* to permit a front yard setback less than the 28 feet required for central air-conditioning units in the yard adjacent to the side street pursuant to **Montclair Code Section 347-52**; and
4. A variance pursuant to *N.J.S.A. 40:55D-70c* to permit a side yard setback less than the 6 feet required for central air-conditioning units pursuant to **Montclair Code Section 347-52**; and

WHEREAS, the applicant submitted a site plan, floor plans and elevations prepared by Dassa Haines, Architects, dated August 15, 2001, revised through July 27, 2002 as well as a survey prepared by Louis R. Puopolo III, Inc. dated September 24, 1996; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on May 21, 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 subject property is a corner lot at the intersection of Woodland Avenue and Maple Avenue measuring approximately 2,400 square feet and contains 2 buildings: a three-story mixed use building on northerly side of the lot known as 1 Woodland Avenue and a two-story mixed use building on the southerly side of the lot known as 89 Maple Avenue.

2. The three-story mixed use building at 1 Woodland contains the business office of the applicant on the first floor and 2 dwelling units above. No changes are proposed for 1 Woodland Avenue in the application.

3. The two-story building at 89 Maple Avenue contains 2 commercial tenant spaces on the first floor and 1 dwelling unit above. The application contemplates converting the nonconforming first floor commercial space in the building located at 89 Maple Avenue into a barrier-free dwelling unit containing 749 square feet of living area.

4. Approval of this application will eliminate a nonresidential component of the property and result in a use that is more harmonious with the character of the existing neighborhood.

5. The Board determined that the applicant proved "special reasons" as it provides sufficient space in an appropriate location for smaller scale housing units and promotes a desirable visual environment consistent with the purposes of the Municipal Land Use Law contained in *N.J.S.A. 40:55D-2g,i*.

6. Based upon the Board's particular knowledge of local conditions, the conversion of the nonconforming commercial use to residential is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

7. The Board determined approval of this application is not inconsistent with the intent and purpose of the master plan and zoning ordinance, which seeks to eliminate commercial uses in residential zones and increase the availability of housing for disabled persons within the Township.

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 requested variances are reasonable and within the general purpose and intent of the ordinance and literal enforcement of the ordinance is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Homes of Montclair Ecumenical Corp., for site plan and variance approval is hereby approved subject to the following conditions:

1. Any air-conditioning units installed between the two buildings on the property shall be placed as far back from Maple Avenue as possible.
2. The applicant shall obtain all required Township approvals for any proposed construction in the public right-of-way, including the proposed stairway and barrier-free ramp.

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 Ms. Cockey, it was resolved that the Board Attorney would represent the Board of Adjustment in the appeal of the Board's decision on the application of **Calvary Chapel of Montclair, 7 North Willow Street**.

Assistant Secretary Charreun announced that the variance application of **The Fortunato Group, 127 Pine Street** has been postponed until the July 18, 2003 regular meeting of the Board of Adjustment at the request of the applicant, that the applicant has granted the Board an extension of time for which to act on the application, and that no further notice would be given.

Chair Harrison called the variance application of **Leslie & Reggie Lucas, 334 Highland Avenue**. Leslie Lucas, owner, was sworn and described the property and the proposed fence. Ms. Lucas stated that subject property is located at the corner of Highland Avenue and Bradford Avenue. She also stated that the rear and side areas of the property are not usable for outdoor use due to the location of the dwelling, garage, and driveway on the lot and that the yard area near Bradford Avenue is the only usable outdoor area on the property. She further stated that the vehicular traffic at the intersection of Highland Avenue and Bradford Avenue disturbs the privacy and enjoyment of the usable yard space on the property and that a 6½-foot fence is proposed for a portion of the front yard along Bradford Avenue that would enclose the area of the property used for outdoor recreation.

The Board questioned Ms. Lucas.

Ms. Lucas stated that the proposed fence along the Bradford Avenue property line would be located behind the existing evergreens and hedges. She also stated that a 4½-foot fence does not provide adequate privacy for their yard and that the 6½-foot section of the proposed fence would transition gradually into the 4-foot section that completes the enclosure of the yard.

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 Ms. Costello, the variance application was approved, subject to the following condition:

1. The proposed fence shall conform to the maximum height requirements of the Zoning Ordinance in the front yard area of the property located between the dwelling and Highland Avenue.

Chair Harrison called the variance application of **Bela Schwartz & June Zimmerman, 446 Park Street**. Bela Schwartz and June Zimmerman, owners, were sworn and described the proposed location of the pool heater. Mr. Schwartz stated that they have been residing at the subject property since last summer and that the existing swimming pool on the property was installed with permits in 1977. He stated that the proposed pool heater is to be placed next to the existing pump and filter. He also stated that the area of their property where the pool equipment is located does not affect the southerly neighbor because it abuts an area of the neighbor's yard that is behind the garage on the neighbor's property and is isolated and unused by the neighbor.

The Board questioned the applicants.

Mr. Schwartz stated that the proposed pool heater is additional equipment and not a replacement of a previously existing pool heater. He also stated that in order to meet the setback requirement of 10 feet, the pool heater would have to be installed on the lawn area between the existing pool filter and the patio that borders the pool. He further stated that locating the pool heater closer to the pump and filter allows the equipment to function more efficiently. He continued by stating that they had spoken to the adjoining neighbor on the southerly side, nearest to the pool equipment location, and that the owner of that property agrees that they would not be impacted by the addition of the pool heater.

Marked into evidence were:

A-1 Photograph of the existing pool equipment on the property

A-2 Photograph of the lawn and patio area located between the existing swimming pool and existing pool equipment

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

Chair Harrison called for public comment. None was offered.

Mr. Schwartz stated that the proposed location of the pool heater is the most logical location for it to be placed. Ms. Zimmerman stated that the proposed location of the pool heater provides the safest location, as it would be away from the play areas in the backyard used by children.

The Board discussed the application.

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

1. A fence enclosure shall be constructed around the pool equipment area.
2. The applicants shall apply for and obtain all necessary building permits within 30 days.

Chair Harrison called the variance application of **Andrew Groelinger, 120 Chestnut Street**. Andrew Groelinger, owner, was sworn and described the proposed second story addition. Mr. Groelinger stated that the proposed addition would be aligned with the existing exterior walls of the single-story section at the rear of the dwelling. He also stated that a 6-foot side yard setback is required for the addition and that a side yard setback of 4.21 feet is proposed. He further stated that the aligning the second story addition with the existing walls of the first floor beneath it is the best aesthetic and structural design option for the proposed addition.

The Board questioned the applicant.

Mr. Groelinger stated that the second floor addition would contain a closet for the master bedroom, a sitting room, and a laundry room.

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, the variance application was approved.

Chair Harrison called the variance application of **Gerald and Linda Blume, 296 North Mountain Avenue**. Gerald Blume, owner, was sworn. Mr. Blume stated that 2 central air conditioning units exist at the rear of the dwelling which are in a conforming location and that he is seeking a variance to relocate the units to the southerly side yard of the property with a setback less than the required 6 feet. He stated that the area in the southerly side yard proposed for the central air conditioning units is at least 58 feet from the street and that the view of units from street would be screened by existing shrubbery. He also stated that the central air conditioning units would be further screened from view by a complete fence enclosure that is proposed as part of the variance application. He continued by stating that the owner of the adjoining property on the southerly side is present at the meeting to support his variance application.

Mr. Blume stated that his property measures 60 feet in width and that the substantial slope in the rear yard leaves a limited amount usable outdoor area on his property. He also stated that the present location of the central air conditioning units on the property detract from the enjoyment of the outdoor space on his property. He further stated that the current location of the central air conditioning units in the rear yard has a worse effect on the adjoining properties than the proposed location in the southerly side yard and that the proposed location would not have an adverse impact on the public.

Marked into evidence were:

- A-1 Photograph of the proposed location of the central air conditioning units
- A-2 Photograph of the proposed location of the central air conditioning units
- A-3 Photograph of the proposed location of the central air conditioning units
- A-4 Photograph of the existing central air conditioning units located in the rear yard

The Board questioned Mr. Blume.

Mr. Blume stated that the proposed central air conditioning units in the southerly side yard would be set back approximately 1 foot 6 inches from the southerly property line. He also stated that the proposed fence enclosure would be at least as tall as the units, which measure approximately 36 inches in height.

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

Chair Harrison called for public comment.

Susan Johnson, 294 North Mountain Avenue, was sworn and stated her support for the application.

The Board discussed the application.

On motion by Mr. Susswein, seconded by Chair Harrison, the variance application was denied, Ms. Cockey and Mr. Haizel voting in the negative.

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