

MINUTES OF THE MONTCLAIR BOARD OF ADJUSTMENT
September 15, 1999

PRESENT: Chair Harrison, Vice Chair Chapman, Mr. Tobin, Ms. O'Connell, Mr. Church, Mr. Fleischer, Ms. Freundlich, Mr. Williams; also, Michael Sullivan, Esq., Michael Zichelli, Assistant Secretary, and Tehuti Barrett, Assistant Secretary

ABSENT: Mr. Spivey

Mr. Zichelli 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. Chapman seconded by Mr. Church, the **Minutes of the August 18, 1999** regular meeting were adopted, Ms. O'Connell abstaining.

On motion by Mr. Chapman, seconded by Mr. Church, the following **Memorializing Resolution of Nathan Jones, 555 Park Street**, was adopted, Ms. Freundlich and Ms. O'Connell abstaining.

WHEREAS, Nathan F. Jones, as owner, did make application to the Board of Adjustment of the Township of Montclair for a determination pursuant to *N.J.S.A. 40:55D-70b* that the applicant's proposed greenhouse addition is permitted under the zoning regulations of the Code of the Township of Montclair on property located at 555 Park Street and designated as Lot 37 in Block 2805 and located in the R-1 One Family Residential Zone; and

WHEREAS, the applicant submitted a survey originally prepared by Richard J. Hingos, Professional Land Surveyors, dated August 31, 1999 to which the proposed greenhouse was hand drawn onto the survey; and

WHEREAS, this matter came on to be heard at regular a meeting of the Board of Adjustment held on August 18, 1999, 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; and

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

1. The applicant proposes to construct a 24 foot by 48 foot greenhouse addition which would be attached to the existing residence by a 11 foot by 11 foot breezeway.

2. The proposed greenhouse is planned to be utilized by the applicant for personal use only and could house up to several thousand orchids. The applicant represented the greenhouse would not be used for any commercial purpose.

3. A greenhouse use is not specifically permitted in the R-1 Zone by the zoning ordinance. Section 224-38 provides accessory uses customarily associated with principal uses (e.g., single family residential use) are permitted in the zone. Section 224-2 defines an accessory use as subordinate to the principal use on the same lot and serving a purpose customarily incidental to the use.

4. The Board finds the proposed greenhouse addition is not customarily associated or customarily incidental to single family residential use. The proposed greenhouse is immense in size compared to the existing house. The proposed greenhouse with two large exhaust fans would appear different than what is found throughout the township in single family residential zones.

WHEREAS, the Board, based upon the foregoing findings, determined that the applicant's proposed greenhouse addition is not permitted in the R-1 Single Family Zone;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Nathan F. Jones for a determination pursuant to *N.J.S.A. 40:55D-70b* that the proposed greenhouse addition is permitted 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. Church, seconded by Mr. Fleischer, the following **Memorializing Resolution of Kings Super Markets, 650 Valley Road**, was adopted, Ms. O'Connell and Ms. Freundlich abstaining:

WHEREAS, Kings Super Markets, Inc., did make application to the Board of Adjustment of the Township of Montclair for permission to install three wall mounted signs at its existing supermarket located at 650 Valley Road and designated as Lots 8, 9 and 10 in Block 1810 on the Township tax map and located in the N-C Neighborhood Commercial Zone; and

WHEREAS, the applicant requested variances pursuant to *N.J.S.A. 40:55D-70c* for deviations from Montclair Code Section 224-99.1A as follows:

1. To allow all three wall mounted signs to be internally illuminated.
2. To allow all three signs to project 10 inches beyond the wall where a maximum of 6 inches is permitted.
3. To allow two of the signs (south and north elevations) not facing a public right-of-way.
4. To allow the sign facing Valley Road to measure 3 feet in height where a maximum of 2 feet is permitted.

WHEREAS, the applicant submitted a property survey prepared by John Zanetakos, Inc. dated July 20, 1999 and elevation drawings prepared by Rosenbaum Design Group bearing a final revision date of June 28, 1999; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on August 18, 1999 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; and

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

1. The application contemplates removal of an existing 10 foot by 20 foot wall mounted sign on the front elevation as well as a 6 foot by 12 foot wall mounted sign on the north elevation. The existing signs will be replaced by three wall mounted signs as follows: 3 foot high by 7 foot 4 inches wide facing Valley Road and two signs mounted at the northern and southerly walls facing the applicant's private parking lot each measuring 2 foot high by 5 foot 2 inches wide.

2. The application results in a reduction in aggregate sign size from 272 square feet to 53.89 feet which represents an aesthetic benefit to the public.

3. The proposed signs, although internally illuminated, will result in significantly less light than the existing fluorescent tube lights and will not adversely impact the neighborhood.

4. The proposed 10 inch projections represent de minimis deviations from the maximum permitted under the ordinance and will be barely visible, if at all, by the public.

5. The proposed 3 foot high sign facing Valley Road is appropriate given the scale of the front elevation of the property.

6. The two signs on the northern and southerly walls facing the applicant's private parking lot, although not facing a public right-of-way, will facilitate identification of the site without resulting in any visual clutter.

7. Based upon the Board's particular knowledge of local conditions, the proposed signs will enhance the aesthetics of the building, will not adversely impact the neighborhood and are 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 peculiar and exceptional practical difficulties and exceptional and undue hardship and 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)*;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of Kings Super Markets, Inc. for variances is hereby approved subject to the following condition:

1. The illumination of the signs shall be turned off at store closing or 10:00 p.m., whichever is earlier.

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 that at the applicant's request, the variance application of **Nathan Jones, 555 Park Street** was withdrawn.

Chair Harrison announced that due to error in notification, the variance application for **Over the Rainbow Nursery, Inc, 32 Pleasant Avenue** was postponed until the October 20, 1999 hearing.

Mr. Williams joined the meeting.

Chair Harrison called on the application of **Junior League of Montclair, 4 & 4A Stonebridge Road**. Attorney Rita Chimmell provided a brief background about the organization and described the nature of the application. Ms. Chimmell explained that her clients seek a temporary use variance beginning May 2, 2000 through May 29, 2000 to use the dwelling as a designer showhouse. The property is donated by the homeowner, to the Junior League, for decoration and presentation to the public.

Ms. Chimmell called on Margaret Campbell-Harris, Chair of the Executive Board. Ms. Campbell-Harris explained that the house is completely cleared of all furnishings, and the property is then decorated both inside and outside. The decorated premises is opened to the public for viewing for a fee. The proceeds from the shows are allocated to programs for children at risk. There are several different types of events held, ranging from teas to lectures to auctions, where food and drinks are available, but no alcohol is served.

The following item was marked for identification:

A-1 Applicant's exhibit #1, schedule of events

Ms. Campbell-Harris continued, stating that the number of events scheduled for this year is nearly double that of two years ago. This year there are more

teas in addition to events that were not on the schedule two years ago, for a total of approximately 10 more events. The tent that will house the outside events will be installed from approximately April 26, 2000 to June 3, 2000.

Ms. Chimmell called on Barbara Casulli, Finance Chair of the Executive Committee. Ms. Casulli stated that this year's goal is to raise at least \$300,000 in proceeds. The last designer house received approximately 15,000 visitors. This year the number of visitors is expected to be between 15,000 and 17,000.

Ms. Chimmell called on Ellen Smith, Assistant Chair of the Executive Committee. Ms. Smith stated that there will parking available on both sides of Stonebridge Road. There will be consultation with the police department as to the best way to handle the increase in traffic volume. Off duty officers will be hired for traffic control and parking. A private sanitation company will be contracted for removal of refuse and recycling materials. The inspectors from the fire department prior to the premises being occupied will inspect the house, and fire and smoke detectors will be installed.

Ms. Chimmell called on Richmond Rabinowitz. Ms. Rabinowitz stated that permission will be sought from the Township Council to post direction arrows on poles at the main intersections. A freestanding wooden sign will be erected on the property.

After some discussion, on motion by Mr. Church, seconded by Mr. Tobin, the Board, unanimously voted to approve the application subject to the following conditions:

1. The applicant shall adhere to the Montclair Police Department's recommendations with regard to parking and public safety.
2. The applicant shall adhere to the Montclair Fire Department's recommendations with regard to fire and public safety.
3. If it is deemed necessary that off site directional signs be erected, the applicant shall obtain permission from the Township Council and all other necessary approvals.
4. All necessary fire and building permits shall be obtained by the applicant at the applicant's expense.
5. Any tent erected on the property shall only be in place between April 22, 2000 and June 7, 2000. The placement of any temporary tent structure shall conform to all applicable setback requirements specified in the Township Zoning Ordinance.
6. The applicant may install one identification sign on the site for the duration of the use of the tent and which shall not exceed 12 square feet in area.
7. The applicant shall adhere to the following schedule of operation for public events:

May 2, 2000 through May 29, 2000, the showhouse shall be open to the public from 10 a.m. to 4 p.m. on Tuesday, Wednesday, Friday and Saturday, 10 a.m. to 8 p.m. on Thursday, and on Sundays from 12:00 p.m. to 4:00 p.m., and be closed to the public on Mondays except for special events; and

8. The applicant shall adhere to the following special events schedule functions that may take place at the subject property:

“Sustainer Bare Bones Party” on March 3, 2000 between the hours of 7:00 p.m. and midnight; and

“Bare Bones Party” on March 4, 2000 between the hours of 7:00 p.m. and midnight; and

“Press Party” on Wednesday, April 26, 2000 between the hours of 10 a.m. and 2 p.m.; and

“Designer Preview Party” on Friday, April 28, 2000 between 7:00 p.m. and midnight

“Patron’s Party” on Saturday, April 29, 1999 between 6:00 p.m. and midnight

“Garden Lecture” on Sunday April 30, 2000 between 11:00 a.m. and 2:00 p.m.

“Tea” on Monday, May 1, 2000 between 2:00 p.m. and 5:00 p.m.

“Wine and Cheese Party” on Friday, May 5, 1999 between 6:00 p.m. and 11:00 p.m.

“Tea” on Sunday, May 7, 2000 between 2:00 p.m. and 5:00 p.m.

“Luncheon” on Monday, May 8, 1999 between 11:00 a.m. and 2:00 p.m.

“Mother’s Day Tea” on Sunday, May 14, 2000 between 2:00 p.m. and 5:00 p.m.

“Lecture” on Monday, May 15, 2000 between 11:00 a.m. and 2:00 p.m.

“Wine and Cheese Party” on Friday, May 19, 2000 between 6:00 p.m. and midnight

“Men of 2000 Outing” on Sunday, May 21, 2000 between 6:00 p.m. and midnight

“Luncheon/Tea” on Monday, May 22, 2000 between 11:00 a.m. and 5:00 p.m.

“Live Auction” on Saturday, May 27, 2000 between 7:00 p.m. and midnight

“Designer Lecture” on Monday, May 29, 2000 between 11:00 a.m. and 2:00 p.m.

“Closing Party” on Saturday, June 3, 2000 between 6:00 p.m. and midnight

Mr. Chapman announced that he would step down for the following application.

Chair Harrison called on the application of **Donald Zief, 143 Eagle Rock Way**. Attorney David Owen briefly described the nature of the application explaining that the applicant proposes to demolish the existing two-car garage and replace it with a three-car garage with storage above. The property is unique in that three of its four sides has street frontage, thereby giving the site three front yards, one side yard and no rear yard. The topography is very steep and increases as you travel further west on the site.

Mr. Owen called on Dennis Mylan, Architect and Professional Planner.

The following items were marked for identification:

- A-1 Photo board with pictures of the garage and the site.
- A-2 Enlarged rendering of the site plan.

Mr. Mylan explained that the garage is situated near the bottom of a steep slope and is built into the slope. The street bordering the property to the south, Murray Street, is an undeveloped street. The doors of the garage face east toward Valley Way as will the proposed garage. Behind the garage is a retaining wall, which will remain. The existing foundation will remain if it is found to be in a safe and usable condition. The existing garage has dimensions of 20 feet by 20 feet. The proposed will be 20 feet by 34 feet and will be setback further from Valley Way. The new bay will put the garage closer to Murray Street, however the property is densely wooded along Murray Street providing a natural buffer for that side of the property. The existing storage shed will be removed and replaced with indoor storage on the second level of the three-bay garage. The steep slope ordinance is triggered and every effort will be made to comply with the ordinance.

The following item was marked for identification:

- A-3 The Board Engineers letter assessing the steep slope impact.

Mr. Owen concluded exclaiming that the proposal would result in an

overall desired visual environment, promotes residential usage and does not substantially impair the intent and purpose of the zone plan or zoning ordinance.

Following some discussion, on motion by Mr. Fleischer, seconded by Mr. Williams, the Board voted to approve the application, subject to the following conditions; Mr. Chapman abstaining:

1. The applicant shall remove the existing shed.
2. The garage shall not be heated.
3. The applicant shall comply with all suggestions from the Board Engineer.

Chair Harrison called for a 5 minute recess.

Upon reconvening, Chair Harrison called on the application of **Ralph Silas, 84 Mission Street**. Mr. Silas was not present. Joan Perry, Mr. Silas' business partner and Arthur Katz, Architect were present.

Chair Harrison announced that because neither the owner nor his legal representative were present, the application could not be heard. Chair Harrison accepted a temporary oral consent from Ms. Perry contingent upon a consensual letter signed by Mr. Silas, accepting the postponement of the application hearing date to the October 20, 1999 meeting.

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