

**MINUTES OF THE BOARD OF ADJUSTMENT
OCTOBER 17, 2001**

PRESENT: Chair Harrison, Ms. Brooks, Vice Chair Chapman, Ms. Costello, Mr. Fleischer, Mr. Gallardo, Mr. Haizel, Ms. Rock-Bailey, Mr. Susswein; also, Michael Sullivan, Esq., Ms. Kadus, Secretary, Donald Sammet, Assistant Secretary, and Richard Charreun, Planning Technician

ABSENT: None

Secretary 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 Meetings Act.

On motion by Mr. Fleischer, seconded by Mr. Gallardo, the **Minutes of the September 19, 2001** regular meeting were adopted as modified, Mr. Chapman and Ms. Brooks abstaining.

On motion by Chair Harrison, seconded by Ms. Gallardo, the following Resolution memorializing the approval of the site plan and variance application of **Montclair Community Church, 143 Watchung Avenue** was adopted as modified, Mr. Susswein voting in the negative, Mr. Chapman and Ms. Brooks abstaining:

WHEREAS, Montclair Community Church, did make application for site plan approval, as amended, to the Board of Adjustment of the Township of Montclair to construct an addition to the church and create a new parking area on property designated as Lot 7 in Block 3409 on the Township tax map and located in the R-1 One Family Residential Zone; and

WHEREAS, the applicant received approval for a use variance subject to a number of conditions including submission of a revised site plan as set forth in a resolution adopted by the Board on March 7, 2001; and

WHEREAS, the applicant submitted a site plan prepared by the Mylan Architectural Group, Sheet CP-1, "Cover Page, Key Map, Site and Building Zoning Table"; SP-1 "Site Plan"; SP-2 "Site Details"; SP-3 "Soil Erosion Sed. Cont. & Drainage"; L-1 "Lighting and Landscape Plans"; A-1 "First Floor Plan"; A-2 "Second Floor Plan"; A-3 "Basement Floor Plan"; A-4 "Elevations"; A-5 "Elevations"; A-6 "Section", all bearing a final revision date of September 6, 2001; and

WHEREAS, the applicant sought a variance from *N.J.S.A. 40:55D-70c* to allow 2 parking spaces where a minimum of 44 are required by Montclair Code Section 224-91; and

WHEREAS, this matter came on to be heard at meetings of the Board of

Adjustment held on July 18, and September 19, 2001 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 redesigned site plan including reductions in height and scale of the building walls has reduced the mass of the building to be compatible with the scale and character of the neighborhood.

2. The applicant initially sought to construct 14 off-street parking spaces which would have required substantial paving with little benefit. The neighbors advocated less parking on the site and the applicant revised the parking area and sought a variance to permit two handicap access parking spaces on the site. The preservation of open space and aesthetic betterment in this plan represents a benefit to the general public. Parking for the proposed use will be adequately met by on-street parking and municipal parking lots.

3. The landscaping plan subject to the conditions below, provide appropriate screening and represents an aesthetic benefit to the public.

4. The lighting plan subject to the conditions below, will not adversely impact the neighborhood.

5. All the findings and conclusions contained in the Board's resolution dated March 7, 2001 are incorporated herein.

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

WHEREAS, the Board, based on the foregoing findings, concluded that the proposed site plan complies with the standards contained in the Site Plan Ordinance and the site plan conditions contained in the Board's March 7, 2001 resolution and can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance pursuant to *N.J.S.A. 40:55D-76(b)*;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of

the Township of Montclair, that the within application of Montclair Community Church, for site plan approval and parking variance is hereby approved subject to the following conditions:

1. Absorption materials shall be installed on building walls adjacent to areas where condensers are located on the ground which shall also be shielded by the installation of a three foot berm and arborvitae.
2. The large window located on the south façade shall be translucent so that no visible light sources can be seen through the window.
3. The applicant shall install additional evergreens between the proposed addition and the southerly property line.
4. Outdoor lighting shall be limited only to the front façade and shall not exceed a "soft glow".
5. No outdoor recreational use shall be permitted after dark or 7:00 p.m., whichever is earlier.
6. The Church shall direct parishioners to park, whenever possible, in public parking lots within 1,000 feet of the property and that parishioners not block or turn around in the driveways of neighbors.
7. The Planning Department shall issue a letter to the County on behalf of the Board recommending the driveway cut be 12 feet rather than 15 feet as proposed.
8. Any outdoor use of the property shall be fully supervised by Church personnel.
9. If any existing trees (not shown to be removed on the plan) die within two years of completion of construction, they shall be replaced by an equivalent tree.
10. The applicant shall adhere to conditions 1 through 4 and 7 contained in the Board of Adjustment's Engineer's memo dated September 19, 2001.
11. The applicant shall obtain any necessary road opening permits.
12. Exterior lighting shall not be on after 11:00 p.m.
13. The existing fire escape on the building shall be removed.
14. The existing information sign shall be removed.
15. The existing spotlights that shine on the building shall be removed.

16. The applicant shall obtain approval from the Essex County Planning Board.

17. The applicant shall obtain Soil Conservation District approval.

18. As stipulated by the applicant, no outside groups shall be allowed to use the property.

19. The applicant shall be responsible for posting inspection fees as required by the Board Engineer.

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 **Kanwaljit and Jennifer Bakshi, 66 Stonebridge Road** was adopted, Chair Harrison, Ms. Brooks, Mr. Chapman, Mr. Fleischer, and Mr. Susswein abstaining:

WHEREAS, Kanwaljit and Jennifer Bakshi, owners of property at **63 Stonebridge Road**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJS40:55D-70c to allow for a front yard setback less than that required pursuant to **Montclair Code Section 347-33B(2)** in connection with the construction of a garage addition to their single-family dwelling on property designated as Lot 17 in Block 1101 on the Township Tax Map and located in the R-O Mountainside Zone; and

WHEREAS, the applicants submitted elevations and a site plan prepared by Sionas Architecture, P.C., dated August 29, 2001; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on September 19, 2001 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 measuring approximately 36,435 square feet in size and contains a 2 ½ story single-family dwelling.

2. The applicants' proposal is to construct an addition containing an attached three-car garage, mudroom and powder room.

3. The lot was once an interior lot but is now considered a corner lot due

to the creation of Stonebridge Court, a new roadway approved as part of a major subdivision, which runs along the easterly side of the property.

4. The addition proposed does not constitute a further encroachment into the easterly front yard.

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 Kanwaljit and Jennifer Bakshi for a variance pursuant to N.J.S.A. 40:55D-70c to construct an addition to their single-family dwelling is hereby approved,

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

Chair Harrison announced the amended preliminary and final site plan and amendment to a condition of use variance approval application of **Over The Rainbow Nursery Inc. 32 Pleasant Avenue**. Grant Gille, Esq., appeared as attorney for the applicant.

Mr. Haizel stepped down for this application.

Mr. Gille stated that the current owner of the property, Gericare, Inc., has allowed the property taxes to become delinquent and that the applicant will satisfy back taxes following approval of this application. Mr. Gille described the history of the application, including the granting of the use variance in June of 2001 with conditions and the subsequent settlement agreement between objectors of that approval and the applicant. He stated that the applicant is currently seeking amended site plan approval and an amendment to a condition of the previous resolution as per the settlement agreement.

Ms. Rock-Bailey joined the meeting.

Mr. Gille called Dennis Mylan, Architect, Mylan Architectural Group, who was sworn.

Marked into evidence was:

- A-1 Revised site plans prepared by the Mylan Architectural Group on 11 pages, dated October 4, 2001
- A-2 Previous site plan prepared by the Mylan Architectural Group, on a board, dated August 10, 2001.
- A-3 A Brochure from Hoover Treated Wood Products Inc., manufacturer of the sound solution plywall to be used on site.
- A-4 A copy of the Settlement Agreement, dated October 5, 2001

Mr. Mylan described the changes made to the site plan based on the Board's conditions of approval from the previous hearing. These included the deletion of the proposed sign at the front of the property, a note added to the revised plans stating that all lights on the site will be placed on timers, and five (5) additional trees included in the site plan in lieu of replacing dead trees on Pleasant Avenue which the applicant did not find.

Mr. Mylan described the proposed sound barrier fences to be placed at two locations on the site and additional landscaping as per the Settlement Agreement. Mr. Mylan stated that a sound barrier fence measuring 6 feet high and 132 feet in length would be placed along the westerly end of the property, with a solid row of evergreens for most of that length as well. He stated that this would replace the solid wall on the previous plans. He also stated that a second sound barrier fence measuring 72 feet in length would be placed along the western edge of the play area and a row of evergreens would be placed on the south side of the play area.

The Board questioned Mr. Mylan.

Chair Harrison called for questions from the public for Mr. Mylan.

Mary Jones, of 10 Pleasant Avenue, voiced concern over who would be responsible for the clean up of the contaminated soil on the site.

Mr. Gille stated that the current owner of the property, Gericare Inc., would be responsible for the removal of contaminated soil on the site.

Mr. Gille proposed an amendment to the eighth condition (Condition #8) of the June 21, 2000 Resolution of Approval, which limits the number of special events to be held on the site to twelve. The amendment will further limit the special events, as stipulated in the settlement agreement.

At the request of the Board, the Applicant agreed to define major holidays (language in the settlement agreement) as Federal holidays and Easter.

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

Chair Harrison called for public comment. None were offered.

On motion by Mr. Chapman, seconded by Mr. Fleischer, it was resolved to approve the amended site plan and amendment to Condition #8, Ms. Rock-Bailey abstaining, subject to the following conditions:

1. All conditions contained in the Board's June 21, 2000 resolution not modified herein shall remain in full force and effect.
2. Condition 8 of the June 21, 2000 resolution shall be amended to include the following additional limitations:
 - A. No special events will be held on federal holidays or Easter Sunday.
 - B. Outdoor evening events will be limited to four per year.
 - C. Weeknight evening events will conclude and the premises vacated no later than 10:30 p.m.
 - D. Weekend events will conclude and the premises vacated no later than 11:00 p.m.

Chair Harrison announced the site plan approval application of **Carol Cotugno, 55 South Fullerton Avenue**. Grant Gille, Esq., appeared as attorney for the applicant. Mr. Gille described the prior hearing on September 5, 2001 and the subsequent memorialized resolution of September 19, 2001, in which a variance for front yard parking was denied. Mr. Gille stated that the applicant has revised the site plan and no longer requires a variance for front yard parking. Mr. Gille stated that the total parking on the site has been reduced from 14 spaces to 9 spaces and that the setbacks of the parking areas have been increased. Mr. Gille stated that the proposed development contains 3 dwelling units which would require 6 parking spaces, therefore the proposed 9 parking spaces does not require a variance.

Mr. Gille called Gerard Valk, Architect, who was sworn.

Marked into evidence was:

- A-1 Revised site plan prepared by Gerard Valk, Architect, dated October 15, 2001
- A-2 Original site plan prepared by Gerard Valk, Architect, reduced letter-size version.
- A-3 (a-d) Photographs:

Mr. Valk presented his qualifications to the Board as a Licensed Architect and Planner. Mr. Valk described the revised site plan to illustrate the new parking configuration with no parking in the front yard, the increased setbacks of the parking area to 5 feet on the southerly side and 15 feet on the easterly side, and the reduction of paved areas as well as the enlarged landscaping areas. Mr. Valk explained that one of the surface spaces is wider than the others and may be used as a handicapped parking space if needed. Mr. Valk stated that the current site plan requires no variances.

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

Mr. Valk stated that the driveway curb-cut width could be reduced from 18 feet to 12 feet if the Board deems it required, however, the aisle width should remain at 30 feet rather than the minimum of 24 feet.

Chair Harrison called for questions from the public.

Jennifer Alexander, Esq., representing The Fullerton Condominium Association, asked for the difference in square footage of the parking area shown in the original site plan and the revised site plan. Ms. Alexander asked if more cars would be able to park in areas not designated as spaces. She also asked if the applicant could add more landscaping in certain areas. Ms. Alexander asked whether the public streetlight near Roosevelt Place would provide sufficient lighting for the portion of the parking lot nearest to it and, if so, could that warrant the removal of the light fixture to be placed in that area of the parking lot.

Ms. Sage, of Roosevelt Place asked for a description of the lighting plan due to concerns over glare.

Mr. Edward Juwar, of Roosevelt Place stated that he would like to see as few parking spaces as possible allowed on the site.

The Board questioned Mr. Valk.

Mr. Valk described the scale of the light fixtures and stated that the applicant would like to maintain at least a 0.5 foot candle throughout the entire parking lot. Mr. Valk explained that light fixtures would be screened so that light would not shine outside the boundaries of the applicant's property.

Chair Harrison called for public comment.

Ms. Alexander stated that her clients would prefer the minimum of 6 parking spaces on the site rather than 9 parking spaces and that more landscaping should be added to the site. She also requested that the light fixture nearest to Roosevelt Place be removed if at all possible and that the light fixture height be reduced for the entire site.

Mr. Gille summarized the application.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Ms. Rock-Bailey, it was resolved to approve the site plan approval application and site plan waiver, subject to the following conditions:

1. All outstanding taxes shall be paid.
2. On-site parking spaces shall not be rented for use by parties other than the occupants of the building.
3. The plans shall be revised to provide a 12 foot wide driveway width and 18 the parking area shall be moved an additional 3 feet from the easterly property line.
4. The plans shall be revised to provide for continuation of the Baltic Ivy in 19 the 3 foot area created by the relocation of the parking area and to include 2 additional Coton Easter plantings along each side of the driveway entrance.
5. The plans shall be revised to reduce the size of the light poles and fixtures which shall be approved by the Board engineer. The maximum height shall not exceed 10 feet.
6. The storm water drainage plan shall be reviewed and approved by the Board engineer.
7. The applicant shall post inspection fees as required by the Board engineer.

Chair Harrison announced the variance application of **Howard and Stacie Mintz, 53 Melrose Place.**

Howard and Stacie Mintz, applicants and owners of property at 53 Melrose Place, were sworn.

Mr. Mintz described the proposed addition to the rear of the house. He stated that the addition will extend the westerly line of the house towards the northwest corner of the lot. He further stated that the addition will match the home's existing Victorian architecture and design.

The Board questioned the applicants.

Mr. Mintz explained that most of the addition will be built over an existing attached garage which is partially below grade at the rear of the house. He described that currently there is an outdoor deck over this attached garage. Mr. Mintz further explained that the reason for extending the addition to the westerly line of the house rather than only building the addition over the existing footprint of the attached garage is to keep the Victorian character of the existing home.

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

The Board discussed the application.

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

Chair Harrison announced the variance application of **Don and Sue Clark, 175 Cooper Avenue**.

Don and Sue Clark, applicants and owners of property at 53 Melrose Place, were sworn.

Mr. Clark described the proposed addition to the rear and side of the house. Mr. Clark further described the two wood storage cabinets to be placed at the flanks of the proposed chimney structure at the westerly side of the addition. He went on to describe the existing basement window well and bluestone patio on their property which would be disrupted if the addition were to be shifted eastward away from the side lot line.

The Board questioned the applicants.

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

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Haizel, it was resolved to approve the variance application subject to the following conditions:

1. The addition shall be located no closer than 7.1 feet to the property line at a location south of the chimney structure.
2. The addition including any storage cabinets proposed as part of the chimney structure shall be no closer than 10 feet to the property line at locations north of the chimney structure.

Chair Harrison called for a short recess.

Mr. Gallardo and Mr. Fleischer left the meeting.

Chair Harrison announced the variance application of **Dawn Ciamacco, 198 Forest Street**.

Dawn Ciamacco, applicant and owner of property at 198 Forest Street, Joanne and Jack Mancini, family members and former property owners at 198 Forest Street were sworn.

Ms. Mancini addressed the possibility of the proposed parking space overhanging onto the sidewalk. She stated that the applicants have measured the proposed parking space and that their measurements indicate the parking space dimensions to be 11 feet by 16 feet. She also stated that the car which is to be parked in the proposed space measures 13 feet in length, therefore the vehicle would not impede pedestrian traffic on the sidewalk.

Ms. Mancini went on to address the difficulty in locating parking on the property due to the hardship caused by the existing narrowness of the property. She further stated that the adjacent properties do not have the required 4-foot setback required for parking areas.

Marked into evidence was:

A-1 Photos of site, adjacent properties, and surrounding areas

Ms. Mancini stated that other properties on Forest Street are providing parking in front yards. She continued to describe the locations and amount of parking provided by properties surrounding Ms. Ciamacco's property. Ms. Mancini also stated that when she was the owner of the property, there was great difficulty in selling the property due to the lack of parking as well as the condition of the surrounding properties. Therefore, she sold the home to her sister, Ms. Ciamacco, at a greatly reduced price.

The Board questioned the applicant.

Ms. Mancini stated 4 parking spaces, 1 free of charge and 3 more at a rental charge, have been offered to Ms. Ciamacco by an adjacent property owner. However, the applicant feels that neither she nor her tenants should have to pay for any parking spaces on that adjacent property since the driveway for that lot is partially on Ms. Ciamacco's property. Ms. Mancini also stated that the applicant has also recommended to the adjacent property owner that an easement be granted allowing access to Ms. Ciamacco's backyard via the parking lot, however, the adjacent property owner declined.

Ms. Mancini described how the front of the applicant's home would be remodeled in order to fit a driveway. Ms. Mancini stated that the existing sidewalk would be removed and a new sidewalk would be constructed according to Township code. She also stated that a Township tree would need to be removed. She continued by stating that currently the tree is a nuisance due to the amount of birds it contains and the excrement they produce which can be considered a health hazard.

Ms. Mancini stated that within the last year she had written a letter to the Township Parking Advisory Committee requesting permission to allow 4 parking spaces for Ms. Ciamacco's property on the street, to which she received no response.

Marked into evidence was:

A-2 Sketch of subject property and adjacent properties

The Board discussed the application.

The Board concluded that based on the property survey, the proposed parking space overlaps into the public right way. The Board suggested that before proceeding further, the applicant should determine the limit of her property and where the public right of way begins, possibly with the assistance of the Township Engineering office.

The applicant requested a continuance of the application to the November 7, 2001 meeting, at which time evidence will be provided to illustrate the boundary between Ms. Ciamacco's property and the public right of way.

Chair Harrison announced the continuation of the variance application of **XM Satellite Radio, Inc., 10 Crestmont Road**. Stephen Aspero, Esq., appeared as attorney for the applicant. Mr. Aspero described the application and variance requested to install telecommunications antennas and equipment cabinets on the roof of a condominium building at 10 Crestmont Road.

Mr. Aspero described the concerns of the Board from the previous hearing and introduced the individuals who would be testifying at this hearing.

Mr. Aspero called Rick Novak, National Zoning Manager, XM Radio, he was sworn. Mr. Novak stated that XM Radio launched two satellites earlier in the year, and they need 1100 repeater stations in total in order to fulfill their coverage objectives. He stated that the 10 Crestmont site is particularly crucial and best suited for filling the coverage objectives in this area. He went on to state the terrestrial repeaters proposed for the site are necessary in areas of metropolitan congestion, heavy foliage, or uneven topography.

Mr. Novak stated that the FCC has authorized XM Radio to operate their terrestrial repeaters nationwide.

Marked into evidence was:

A-4 Radio and Frequency Analysis and Report, prepared by LCC International, Inc., dated September 19, 2001

A-5 Order and authorization, dated September 17, 2001

A-6 Report and order memorandum, dated March 3, 1997

- A-7 Order and authorization, dated October 16, 1997
- A-8 Transaction Screen Report (NEPA Report), prepared by ROX Engineering, Inc., dated February 5, 2001

The Board questioned Mr. Novak.

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

Mr. Aspero called Gary Musciano, Principal R.A., Herbst Musciano, he was sworn. Mr. Musciano described the equipment proposed for the building at 10 Crestmont Road.

Marked into evidence was:

- A-9 Large scale elevation drawings on a board

Mr. Musciano stated that the proposed whip antenna will extend 14 feet beyond the penthouse roof.

The Board questioned Mr. Musciano.

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

Mr. Aspero called Petronillo Cailiban, RF Engineer, who was still under oath. Mr. Cailiban stated that panel antennas would not work on this building due to limitations caused by the strict arrangement necessary for panel antennas to work properly. Mr. Cailiban also stated that the existing building is already congested with attachments such as panel antenna, which would prevent proper installation of additional panel antenna. Mr. Cailiban went on to describe the alternative sites that were considered for this installation and that it was determined that no other site in Montclair or nearby locations would provide the service objectives of XM Radio for its target portion of Montclair.

The Board questioned Mr. Cailiban.

Marked into evidence was:

- A-10 Map of Montclair and vicinity showing the proposed antenna site in Montclair as well as surrounding proposed antenna sites on board
- A-11 Propagation study on board

Mr. Cailiban described the coverage area for the proposed site at 10 Crestmont Road. He described how service would be provided for the northern areas of Montclair by a proposed station in Little Falls. He stated that the 10 Crestmont Road site is the tallest site in that area of Montclair and vicinity.

Mr. Aspero called John McDonough, Professional Planner, Herbst & Muschiano, who was still under oath. Mr. McDonough stated that the visual impact of the antenna would be negligible from the street level. He also stated that he conducted a visual impact assessment based on a walk around the surrounding neighborhood.

Marked into evidence was:

- A-12 Second aerial photograph of site on board with improved scale and labeling
- A-13 Photos showing the south elevation existing and proposed conditions on board
- A-14 Photos showing the view from the rooftop on board
- A-15 Photos of the rooftop from a further distance on board
- A-16 Photos of the rooftop from a further distance on board

Mr. McDonough described the vantage points provided by the walk undertaken to assess the possible visual impact of the whip antenna. He stated that the vistas from 3 of the 4 vantage points are obscured by foliage, extreme terrain and relief, and the mass of the building. He went on to state that the view of the south elevation provides a clear line of sight to the rooftop as shown on A-13.

Mr. McDonough stated that the proposed whip antenna would be colored blue-gray to match the backdrop of the sky and that the equipment would not be illuminated, so it would not be visible at night. Mr. McDonough stated that the proposed whip antenna would not have a negative visual impact or create a visual nuisance from the 4 vantage points of the building.

Chair Harrison called for questions from the Board.

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

Mr. McDonough stated that the applicant is seeking only the variance for the height of the whip antenna. He then proceeded to reiterate the planning proofs and the 3-prong positive criteria for the proposed project that were stated at the previous hearing.

Chair Harrison called for questions from the Board.

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

Mr. Aspero summarized the application.

The Board discussed the application.

On motion by Mr. Chapman, seconded by Ms. Rock-Bailey, it was resolved to approve the variance application, subject to the following conditions:

1. The tip of the whip antenna shall not exceed 14 feet in height above the top of the penthouse roof.
2. With the exception of the height of the single whip antenna, all other structures associated with this application shall comply with all applicable zoning standards.

Chair Harrison addressed the request of Mr. & Mrs. Troeller of 96 Prospect Street for an extension on their variance approval for the construction of a detached two-car garage in a front yard. On motion by Mr. Chapman, seconded by Ms. Rock-Bailey, an extension to January 17, 2003 was granted.

The meeting adjourned.