

**MINUTES OF THE MONTCLAIR BOARD OF ADJUSTMENT
OCTOBER 20, 1999**

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

ABSENT: none.

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. Church seconded by Mr. Chapman, the **Minutes of the September 15, 1999** regular meeting were adopted, Mr. Spivey abstaining.

On motion by Mr. Chapman, seconded by Mr. Church, the following **Memorializing Resolution of Junior League of Montclair-Newark, Inc., 4 & 4A Stonebridge Road**, was adopted, Mr. Spivey abstaining.

WHEREAS, The Junior League of Montclair-Newark, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70d for permission to allow the premises at 4 & 4A Stonebridge Road to be used as a designer's show house open to the public during the month of May, 2000 for the purpose of raising funds for charities supported by the Junior League of Montclair-Newark, on property designated as Lots 32 and 32.03 in Block 1102 on the Township Tax Map and located in the R-O Mountainside Zone. A variance is requested from **Montclair Code Section 224-24** in that the proposed use is not listed as a permitted use in the R-O Zone; and

WHEREAS, the applicant submitted a survey of the property; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on September 15, 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 notice; and

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

1. The Junior League of Montclair-Newark, has entered into an agreement with Steven & Patti Ann Kushner, owners of the subject property, to allow the subject premises to be used temporarily as a show house.

2. The operation of a show house involves the redecorating and furnishing of the house and landscaping of the grounds by professional decorators and landscapers, and opening of the premises to the public for a period of time to tour the house and

grounds.

3. The show house is intended to be open for public viewing in May, 2000 according to the following time schedule:

10 a.m. to 4 p.m. on Tuesday, Wednesday, Friday and Saturday,
10 a.m. to 8 p.m. on Thursday,
12:00 p.m. to 4:00 p.m. on Sundays
Closed to the public on Mondays except for special events; and

4. During the times of public viewing, the show house will be staffed and managed by members of the Junior League and, if required by the Montclair Police Department, by one or more off-duty policemen; and that no professional designers or landscapers associated with the initial redecorating of the show house would be present to represent their businesses.

5. During the time of public viewing, an entrance fee will be charged and luncheon foods will be sold as a convenience to viewers, and that furnishings, initially made a part of the show house, will be available for sale.

6. The proceeds from the show house which are derived from the entrance fee and a percentage of the sale of furnishings and all other exhibited items are intended to be used primarily for charitable purposes.

7. The Junior League of Montclair-Newark has operated as a non-profit organization since 1921 and since 1936 has maintained tax exempt status as a charitable organization. Since its inception in 1921, the Junior League has contributed much time and effort to the Montclair community.

8. No off street parking will be permitted on the subject premises during the show house operation, but on street parking is available.

9. The show house hours of operation do not coincide with periods of peak traffic flow; and the Junior League expressed its willingness to hire off-duty police if the need should arise.

WHEREAS, the Board, based on the aforementioned 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;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair that the application of the Junior League of Montclair Newark for a variance pursuant to *N.J.S.A. 40:55D-70d* is hereby approved subject to the following conditions:

1. The applicant shall adhere to the Montclair Police Department's

recommendations in regards to parking and public safety.

2. The applicant shall adhere to the Montclair Fire Department's recommendations in regards 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; and

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.

On motion by Ms. Freundlich, seconded by Mr. Fleischer, the following **Memorializing Resolution of Donald Zief, 143 Eagle Rock Way**, was adopted, Mr. Chapman and Mr. Spivey abstaining:

WHEREAS, Donald Zief, owner of property at 143 Eagle Rock Way, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to N.J.S.A.40:55D-70c to allow for the construction of a three car garage on his property pursuant to **Montclair Code Section 224-41E** in that the accessory structures are not permitted in the front yard, on property designated as Lot 14 in Block

103 on the Township of Montclair Tax maps and located in the R-1 One-Family Residential Zone; and

WHEREAS, the applicant submitted a site plan, plan views and elevation views, prepared by The Mylan Architecture Group, dated August 19, 1999, and a property survey prepared by Alfred J. Clark, Inc., Land Surveyors, dated August 30, 1980; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on September 15, 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 notice; and

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

1. The subject property is located at the intersection of Eagle Rock Way, Valley Way and Murray Street and is determined to have three front yards.
2. The subject property has dimensions of approximately 155 feet by 120 feet and contains a 2-1/2 story single-family frame dwelling and an existing detached 2 car frame garage.
3. The proposed detached three-car garage measures approximately 34 feet wide by 20 feet deep with a storage room above and will be in the same location as the existing two-car garage.
4. Due to the steep topographical declivity of the property, the proposed location of the structure will be safer and more practical than locating it further west on the site.
5. The proposal will result in an aesthetically pleasing structure which will provide built-in storage as opposed to keeping the existing separate storage shed.
6. All but one of the existing trees will remain.
7. The proposed addition will not significantly reduce light, air and open space and represents an aesthetic benefit to the property which is consistent with the purposes of the Municipal Land Use Law.
8. The proposed deviation is minimal and will not result in any adverse impact on area properties and based upon the foregoing, is not inconsistent with the intent and purpose of the zone plan and ordinance.

WHEREAS, the Board, based upon the aforementioned findings, concluded that the applicant has met the proofs required to support the granting of the variance from **Montclair Code Section 224-41E**; and

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

Montclair that the within variance application of Donald Zief, 143 Eagle Rock Way, is hereby approved, subject to the following conditions:

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.

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 called on the application of **Ralph Silas, 84 Mission Street**. Mr. Silas introduced his Architect, Arthur Katz. Mr. Katz explained that his client is seeking a variance to create 4 parking spaces in the area behind the four family house. He stated that he has followed all of the recommendations listed in the letter from the Board Engineer dated June 8, 1999.

Mr. Spivey joined the meeting.

The following item was marked for identification:

A-1 Set of drawings prepared by Arthur Katz & Associates dated January 14, 1998

Mr. Katz went on to describe the overall layout of the parking area and the driveway, stating that there is enough room for 4 cars to park and still have enough space for a car to maneuver out of any of the parking spaces to exit the driveway face out. Each parking stall is 9 feet wide by 18 feet deep with a two-foot overhang, leaving 24 feet of space for maneuvering out of the spot. There is a 6 feet deep by 6 feet wide seepage pit installed to catch the additional water runoff. Currently the house is unoccupied because it is being renovated.

Mr. Silas added that he intends to plant hedges, along the existing fence between the parking area and the lot lines so as to create a natural buffer.

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

1. The applicant shall provide a drainage plan to be approved by the Board Engineer and shall comply with items 1, 3 and 5 contained in the Board Engineer's June 8, 1999 report.
2. The applicant shall provide adequate plantings along the northerly property line to form an effective screen of the property area to be approved by the Planning Department.

3. Any lighting to be installed in the parking area shall be shielded so as to minimize impact on adjacent properties.
4. The applicant shall receive the written approval from the Planning Department prior to any paving on site.

Chair Harrison called on the application of **Over the Rainbow Nursery, Inc, 32 Pleasant Avenue**. Attorney Grant Gille briefly explained the nature of the application and described the proposed layout of the property making reference to the site plan.

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

The following items were marked for identification:

- A-1 Blueprint drawings prepared by The Mylan Architectural Group
- A-2 Blueprint drawings of property conveyance, and land and topographical surveys prepared by Bertin Engineering Associates, Inc.
- A-3 Colored rendering of site plan (returned to applicant)
- A-4 Photos of the site (returned to applicant)
- A-5 Traffic impact study prepared by Bertin Engineering Associates, Inc.

Mr. Mylan described the previous parking usage and the proposed parking layout and usage. He explained the proposed uses for each floor of the building and the proposed outdoor play area to the rear for toddlers and the larger play area to south of the building. The paved area by the rear lot line and a portion of the paved area in the front will be eliminated and replaced with grass, reducing the impervious surface by approximately 1200 square feet. Mr. Mylan, speaking more on the topic of parking, explained that the new lot will be surrounded by Belgian Block curb and will have 22 parking spaces including one barrier free handicap space. The parking lot will be for staff only. Mr. Mylan stated that all of the suggestions from the Board Engineer in his letter to the Board will be followed.

Chair Harrison opened the floor to the public for those with questions for the witness.

The Board discovered that the 50-foot wide parcel of land adjacent to the applicant's lot to the north was not included as part of that land from which the measurements for the 200-foot list were taken. The inclusion of this parcel of land, which accommodates the entrance of the driveway used to access the applicant's lot, will add more properties to the 200-foot list. The applicant must use the updated 200-foot list for proper notification of the property owners.

Chair Harrison announced that due to the error in the notification process, the hearing for the application for Over The Rainbow Nursery, Inc. henceforth must be postponed until proper notification has been given.

Chair Harrison announced that the Board will take a five minute recess.

Upon reconvening, Chair Harrison called on the application of **Nancy Knoerzer, 540 Highland Avenue**. Ms. Freundlich stepped down for the hearing of this application. Attorney Grant Gille stated that his client is seeking a setback variance from the Board in connection with the building of an addition to her home. He briefly explained the layout of the site, describing the location of the house and the garage on the lot. Mr. Gille called on Paul Sionas, Architect and Professional Planner.

The following item was marked for identification:

A-1 Blueprint drawings prepared by Sionas Architecture, dated May 21, 1999.

Mr. Sionas explained how the existing one-car garage is built into the face of the steeply sloping front yard and is set back from the northerly lot line 2.5 feet. The proposal is to construct an addition that will house a foyer on the first floor and a passenger elevator for transportation to and from the first floor and the basement/garage level. The elevator will facilitate the applicant's efforts to access the first floor thereby eliminating the need to negotiate the steep sloping front walkway and stairs. The addition will be unobtrusive to the neighbor and barely visible from the street.

The following item was marked for identification:

A-2 Photos of side of house where the proposed addition will be constructed

Mr. Gille stated that the applicant will agree to create a buffer between her lot and the adjacent lot to the north by replacing the trees that were lost, and any trees that will be removed.

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

1. The newly constructed roof overhang shall not extend out further than the overhang of the existing roof.

Mr. Zichelli explained to the Board the status of the proposed **Home Occupation** State level legislation.

On motion by Mr. Fleischer, seconded by Mr. Chapman, the Board voted to send a letter opposing the legislation to the Townships legislation representatives.

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