

**MINUTES OF THE BOARD OF ADJUSTMENT
NOVEMBER 8, 2000**

PRESENT: Chair Harrison, Vice Chair Church, Mr. Fleischer, Ms. Freundlich, Mr. Gallardo, Mr. Haizel, Mr. Williams; also, Alan Trembulak, Esq., Karen Kadus, Secretary and Donald Sammet, Assistant Secretary.

ABSENT: Mr. Chapman, Ms. Rock-Bailey

Ms. 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.

Chair Harrison welcomed new Board member, Gerard Haizel.

On motion by Mr. Fleischer, seconded by Vice Chair Church, the **Minutes of the October 11, 2000** regular meeting were adopted as modified, Mr. Haizel abstaining.

On motion by Vice Chair Church, seconded by Ms. Freundlich, the **Minutes of the October 18, 2000** special meeting were adopted as modified, Mr. Fleischer and Mr. Haizel abstaining.

On motion by Vice Chair Church, seconded by Ms. Freundlich, the following Resolution Memorializing the approval of the variance application of **Metricom, 56 Walnut Street**, was adopted, Mr. Fleischer and Mr. Haizel abstaining:

WHEREAS, Metricom, did make application to the Board of Adjustment of the Township of Montclair, as amended, to install eight antennae on top of the existing six-story apartment building along with an accessory equipment cabinet to be located within an existing rooftop fan room on property located at 56 Walnut Street and designated as Lot 4 in Block 4308 on the Township tax map and located in the R-4 Three-Story Apartment 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(5); and

WHEREAS, the applicant submitted a site plan, roof plan, building elevations and details prepared by Parette, Somjen & Associates dated June 30, 2000 bearing a final revision date of October 18, 2000; and

WHEREAS, this matter came on to be heard at meetings of the Board of Adjustment held on October 11 and October 18, 2000, 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, as amended, proposes a total of eight antennae. Two antennae each will be face mounted to the north, east and south sides of the larger penthouse not to exceed the height of the penthouse (Quadrants 1, 2, 3) and two antennae will be pole mounted to the smaller penthouse which exceed the height of the smaller penthouse (Quadrant 4).
2. The application complies with all of the conditional use standards contained in the Montclair Zoning Ordinance except that the two antennae proposed in Quadrant 4 exceed the height of the existing structure on which they are mounted contrary to Montclair Code Section 347-17.1C(5)(d). The Board finds that the aforementioned two antennae which will exceed the height of the smaller penthouse by three feet represent a minimal visual intrusion which will not adversely impact adjacent properties and is not inconsistent with the intent and purpose of the zone plan and zoning ordinance.
3. 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.
4. The proposed site is particularly suitable as it allows for installation of six of the eight antennae on an existing structure without exceeding the height of said structure.
5. The proposed antennae and equipment shelter shall comply with all applicable State and Federal regulations governing radiation transmission levels.
6. The application does not involve any 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;

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

1. The antennae in Quadrants 1, 2 and 3 shall be face mounted on the larger penthouse and shall not exceed the height of said structure.
2. The antennae proposed on the smaller penthouse in Quadrant 4 shall not exceed two in number and shall not extend more than three feet above the top of said structure.
3. The antennae shall not exceed five feet in height.
4. The antennae shall be painted to match the color of the penthouse to which they are affixed.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the applicant, Township Manager, Township

Secretary Kadus announced that the variance application of **Steven Lauda and Ralph Latoracca, Murray Street** would be carried to the December 13, 2000 regular meeting of the Board of Adjustment at the request of the applicant.

Secretary Kadus announced that the variance application of **Petia Morozov, 532 Highland Avenue** would be carried to the December 13, 2000 regular meeting of the Board of Adjustment at the request of the applicant.

Chair Harrison announced the variance application of **Mr. and Mrs. Scott Troeller, 96 Prospect Avenue**. Calvin Trevenen, Esq. appeared as attorney for the applicant. Mr. Trevenen described the application.

Mr. Trevenen called Stephanie Troeller, applicant and owner, she was sworn. Ms. Troeller stated that she and her husband purchased the property about 1 year ago and that they are trying to restore the property to its original appearance. Ms. Troeller continued by stating that she has received compliments from her neighbors on the restoration work being done.

Ms. Troeller stated that she would like to add a detached garage since one does not exist on the property. Ms. Troeller stated that a detached garage, rather than an attached garage, would help to maintain the historic character of the house. She also stated that she would like to retain the porte-cochere due to its historic character and usefulness.

Mr. Trevenen stated that the plans indicate that the drive leading to the porte-cochere would be removed but this is an error; the drive will remain. Ms. Troeller stated that the circular drive proposed would not be used as a parking area but as a drop-off/pick-up site.

The Board questioned Ms. Troeller.

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

Mr. Trevenen called John Way, Architect, Way & Associates, he was sworn. Mr. Way stated that the house was constructed in 1905 in the classical revival style and is listed on the State Register of Historic Places.

Marked into evidence was:

- A-1 Photographs on Board
- A-2 Photographs on Board
- A-3 Proposed garage and circular driveway site plans prepared by Way & Associates on board.

Mr. Williams joined the meeting.

Mr. Way described the house and grounds. Mr. Way stated that if a garage was placed in the southerly side yard it would necessitate the removal of the porte-cochere which would compromise the historic integrity of the house. Mr. Way also stated that the proposed garage would average about 13 feet from the Edgewood Terrace or northerly property line with a 4 foot minimum setback and 20 foot maximum setback.

Marked into evidence was:

- A-4 Photographs and site plan prepared by Way & Associates on board.
- A-5 Garage elevations prepared by Way & Associates, dated September 4, 2000 on board.
- A-6 Renderings prepared by Way & Associates and photographs on board.

Mr. Way stated that the paving in the westerly and northerly yards will be removed. Mr. Way also stated that the roof pitch of the proposed garage matches that of the house. He continued by stating that the proposed garage will utilize an existing curb cut on Edgewood Road. Mr. Way stated that Sanborn maps of the neighborhood show 19 houses that do not have a 50 foot front yard setback.

Mr. Gallardo joined the meeting.

Marked into evidence was:

- A-7 Photographs on board.

Mr. Way stated that the circular drive would lead up to the porte-cochere but would not extend past the structure. Mr. Way also stated that the layout of the circular drive would eliminate headlights of cars leaving the drive from shining into neighboring properties.

Mr. Trevenen stated that Peter Meyer, Professional Engineer, was retained by his client. Mr. Trevenen asked the Board if they had heard sufficient testimony or if they would prefer additional testimony from Mr. Meyer. Chair Harrison stated that it was up to the discretion of the applicant.

The Board questioned Mr. Way.

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

Mr. Trevenen stated that the applicant would like to call Mr. Meyer at the next meeting. Chair Harrison stated that the applicant should return with plans showing what pavement will be removed, what pavement will be added and the topography of the site.

Chair Harrison stated that the application would continue to be heard at the December 7, 2000 special meeting of the Board of Adjustment, and no further notice would be given.

Chair Harrison announced the site plan and variance application of **Montclair Community Church, 143 Watchung Avenue**. Grant Gille, Esq., appeared as attorney for the applicant. Mr. Gille stated that the application was originally submitted in spring of 2000 and scheduled for a hearing in the summer of 2000, but the church requested that the application be heard in the fall so that neighbors would be available to make comment and ask questions. Mr. Gille stated that buildings on site have been used for religious services since 1905. Mr. Gille also stated that plans have been revised so that a variance for a front yard parking area is longer required.

Marked into evidence was:

- A-1 Memo to the Board of Adjustment from Mr. Sammet, dated October 2, 2000.
- A-2 Letter to the Board of Adjustment from Mr. Thomas Watkinson, Board Engineer, dated October 10, 2000.
- A-3 Site plans and elevations prepared by The Mylan Architectural Group, dated September 29, 2000.
- A-4 Site plan on board prepared by The Mylan Architectural Group, dated September 29, 2000.
- A-5 Portion of the Township of Montclair Zoning Map.

Mr. Gille called Dennis Mylan, Architect, The Mylan Architectural Group, he was sworn. Mr. Mylan described the history of the property since 1905.

Marked into evidence was:

- A-6 Photograph of the original church building destroyed by fire in 1974 on board.
- A-7 Photograph of the existing church building.
- A-8 Sanborn map showing the location of the original church building.

Mr. Mylan stated that the proposed addition will accommodate seating for 348 parishioners. Mr. Mylan described the layout of each floor of the addition. Mr. Mylan stated that no steeples are proposed, that the proposed height of the addition is lower than the existing building on site and that a sloped roof has been designed to complement the existing architecture in the neighborhood.

Mr. Mylan stated that the proposed parking lot will contain 7 standard size parking spaces, 7 compact size parking spaces and one barrier-free parking space. Mr. Mylan also stated that 4 trees on site would be saved as a result of the scaled back parking area. He stated that a solid wood fence is proposed along the westerly property line to screen the parking area from the adjacent residential use. Mr. Mylan explained that the parking lot was scaled back in order to accommodate the neighbors' concerns over a potential visual intrusion.

Mr. Mylan continued by stating that a new walkway in front of the building, which leads from the parking area to the front entrance of the church, is proposed. Mr. Mylan stated that there is no new front entrance proposed nor are there any new signs proposed.

Mr. Mylan stated that the church use predates the Township Zoning Ordinance, that outside groups or organizations will not be permitted to use the building, that the church currently has no off-street parking and that the church use promotes the morals and welfare of the community and furthermore is an inherently beneficial use. Mr. Mylan continued by addressing concerns raised in the memo prepared by Mr. Watkinson, dated October 10, 2000.

The Board questioned Mr. Mylan.

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

Mr. Jonathan Hyman of 27 Fairfield Street asked if a fence was proposed for the southerly side of the church property.

Mr. Paul deKoninck of 134 Watchung Avenue asked how the width of the driveway proposed compares in size with residential driveways in the neighborhood. Mr. deKoninck also asked how the lights proposed would be shielded from adjacent properties.

Mr. Bob Granger of 25 Fairfield Street asked for clarification of the number of stories of the existing building and proposed addition.

Mr. John Brian of 136 Watchung Avenue asked if there were buildings of comparable sizes in the neighborhood.

Mr. Carl Herman of 135 Watchung Avenue asked what would be visible from his property.

Mr. Gille conducted a redirect of Mr. Mylan.

Mr. Gille called Pastor Edward Banghart, Senior Pastor, Montclair Community Church, he was sworn. Pastor Banghart gave a history of the church and the property. Pastor Banghart stated that 2 Sunday services are currently held at the church, the first service attended by approximately 60 parishioners and the second service attended by approximately 200 parishioners. Pastor Banghart also stated that the church hosts weekly programs including committee meetings, bible study and guest speakers. He explained that monthly programs including outreach programs and children/parent mixed activities are hosted. Pastor Banghart continued by stating that occasionally weddings, funerals, concerts and dinners are held at the church.

Pastor Banghart stated that the church has no intention of renting space in the building to other groups. Pastor Banghart stated that the church needs to expand in order to accommodate more parishioners and that the 2 Sunday services which are currently held would be combined into 1 if the addition was constructed.

Pastor Banghart stated that the church employs 2 full-time staff members and 3 part-time staff members. He continued by stating that the grounds are often used as a play area for neighborhood children as well as children who attend services or other church functions.

Marked into evidence was:

A-9 List of church activities and programs.

The Board questioned Pastor Banghart.

Chair Harrison called for questions from the public for Pastor Banghart.

Mr. David Theobold of 140 Watchung Avenue asked how membership would be affected if the Pastor left.

Mr. Glen Silver of 33 Fairfield Street asked how large the congregation could grow.

Mr. Doug Granger asked if projections were done regarding the congregation's growth.

Mr. David Turok of 272 Highland Avenue asked if relocating the church elsewhere was considered.

Mr. Alan Horowitz of 133 Watchung Avenue asked if the proposed addition matches the architecture of the existing church and how many different architectural designs were considered.

Ms. Jessica deKoninck of 134 Watchung Avenue asked if the property's inclusion in the Marlboro Park Historic District was considered.

Chair Harrison stated that due to the late hour the application would continue to be heard at the December 7, 2000 special meeting of the Board of Adjustment, and no further notice would be given.

The meeting was adjourned at 11:55p.m.