

MINUTES OF THE BOARD OF ADJUSTMENT
November 15, 2006

PRESENT: Chair Harrison, Ms. Cockey, Ms. English, Mr. Haizel, Ms. Holloway, Mr. Susswein and Mr. Whipple; also, Mr. Sullivan, Esq., Mr. Franco, Assistant Planner and Mr. Charreun, Assistant Secretary

ABSENT: Vice Chair Fleischer and Mr. Flood

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. Whipple, seconded by Mr. Haizel, the following Resolution memorializing the approval of the application of **Redeemer Church of Montclair, 105 Walnut Street** was adopted as modified, Ms. English abstaining:

WHEREAS, Redeemer Church of Montclair, did make application to the Board of Adjustment of the Township of Montclair to utilize space within an existing building for Sunday worship services, on property designated as Lot 13 in Block 3209 on the Township Tax Map and located in the C-2 Zone; and

WHEREAS, the applicant requested relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(1) to permit a house of worship which is not a permitted use pursuant to Montclair Code Section 347-84;
2. Modification of a prior condition imposed by the Board of Adjustment which limited the use of the property to an adult day health care center;
3. A variance pursuant to N.J.S.A. 40:55D-70c to permit 18 spaces available for the proposed use where a minimum of 25 is required pursuant to Montclair Code Section 347-101.

WHEREAS, the applicant submitted a site plan and floor plan prepared by the Mylan Architectural Group revised through January 25, 2002; and

WHEREAS, this matter came to be heard at meetings of the Board of Adjustment held on October 18 and 25, 2006 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. Redeemer Church of Montclair established in 2001 has outgrown its current leased space in Montclair. The application contemplates utilizing a portion of the existing one story building at 105 Walnut Street for worship services, religious instruction and nursery on Sunday only between 7:00 a.m. and 2:00 p.m. No structural alterations are proposed.

2. By resolution adopted February 13, 2002 the Board of Adjustment granted variances to permit Senior Care and Activities Center to utilize the property as an adult day health care center. Condition 2 of the resolution limits the use of the property to an adult day health care center. The within application seeks to modify the aforementioned condition to allow the proposed use.

3. The proposed house of worship is "inherently beneficial" thus satisfying the positive criteria under N.J.S.A. 40:55D-70d. *State v. Cameron*, 184 N.J. Super. 66 (Law Div. 1982), affirmed, 189 N.J. Super. 404 (App. Div. 1983), reversed on other grounds 100 N.J. 586 (1985); *Kali Bari Temple v. Board of Adj.*, 217 N.J. Super. 241 (App. Div. 1994); *Sugarman v. Township of Teaneck*, 272 N.J. Super. 162 (App. Div. 1994).

4. The applicant's proposed limited use of the property on Sunday would not conflict with the existing adult day health care center use and thus modification of the previously imposed condition by the Board is reasonable and appropriate.

5. The subject property contains 25 parking spaces of which 7 spaces are utilized by the existing adult day health care center. Parking need is adequately met as 18 on-site parking spaces are available as well as ample overflow parking available in the Walnut Street Municipal lot on Sundays.

6. Based upon the Board's particular knowledge of local conditions, the within application is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

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;

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 Redeemer Church of Montclair for use variance, modification of Condition #2 of the February 13, 2002 resolution and variance for insufficient number of spaces is hereby approved subject to the following conditions:

1. The applicant's use of the premises for worship services, religious instruction and nursery shall be limited to 7:00 a.m. to 2:00 p.m. Sundays only.
2. Use of the premises shall be limited to a maximum number of 200 persons on site at any one time.
3. The use of the Walnut Street driveway is prohibited in connection with the applicant's use.

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. Whipple, seconded by Mr. Haizel, the following Resolution memorializing the approval of the application of **Paul Anderson, 34 North Willow Street** was adopted, Ms. English abstaining:

WHEREAS, Paul Anderson, owner of property located at 34 North Willow Street, designated as Block 3204 Lot 28 on the Montclair Township Tax Maps, filed an application with the Board of Adjustment of the Township of Montclair for variances and site plan approval to construct a new driveway and parking area for 3 vehicles on the subject property; and

WHEREAS, the applicant applied for the following approvals under the Municipal Land Use Law:

1. A variance pursuant to N.J.S.A. 40:55D-70d(2) to expand a preexisting, nonconforming use contrary to Montclair Code Section 347-112; and
2. A variance pursuant to N.J.S.A. 40:55D-70c to permit a driveway setback of less than 1 foot from the southerly side property line, contrary to Montclair Code Section 347-104; and
3. Preliminary and final site plan approval; and

WHEREAS, this matter came on to be heard at meetings of the Board of Adjustment held on October 18, 2006 and October 25, 2006 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 applicant submitted a copy of a property survey prepared by Gluckler & Den Bleyker, dated June 13, 2006, with the proposed driveway and parking area depicted by the applicant; and

WHEREAS, at the October 25, 2006 meeting, the applicant also submitted a professionally prepared site plan with details, prepared by Koestner Associates, dated October 24, 2006; and

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

1. The subject property is an interior lot located in the R-2 Two-Family Residential Zone, and contains a lawful nonconforming three-family dwelling of 2½-stories. Township records indicate that the existing three-family dwelling was approved by the Planning Board on April 6, 1946.

2. The subject property measures 40 feet in frontage width along North Willow Street and 6,000 square feet in lot area. There is presently no driveway or parking on the property and the applicant proposes to construct a driveway on the southerly side of the dwelling that would lead to a parking area for 3 vehicles in the rear yard.

3. The proposed parking area constitutes an expansion of the nonconforming use and a variance is requested from Montclair Code Section 347-112 in that the existing nonconforming use on the property is not permitted to be expanded, increased, or enlarged. A variance is also requested from Montclair Code Section 347-104 in that the proposed driveway is required to be set back a minimum of 1 foot from the southerly side property line and no setback is proposed.

4. The applicant's originally submitted plan called for the driveway and parking area to be constructed with a gravel surface. The professionally designed plan subsequently submitted by the applicant at the October 25, 2006 meeting depicted asphalt pavement for both the driveway and parking area.

5. The Board determined that the requested use variance to expand the nonconforming use could be approved since providing adequate on-site parking is desirable and is consistent with the purposes of the Municipal Land Use Law, Master Plan, and zoning ordinance.

6. The Board also determined that the requested variance for providing no setback for the proposed driveway is also acceptable due to the location of the dwelling on the lot and the narrowness of the property. The applicant also demonstrated that he

put forth a good faith effort to obtain an easement from the adjoining property owner to the south in order to widen the driveway and provide the required setback, but was unable to reach an agreement.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant proved the requisite special reasons for the granting the requested use variance 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 applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and that the variance for a driveway setback less than required from the southerly side property line 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 Paul Anderson for site plan approval and variances is hereby approved subject to the following condition:

1. The applicant shall comply with comments contained in the Board Engineer's report, dated August 19, 2006, with the exception that the driveway be required to be paved forward of the rear corner of the dwelling and that the parking area in the rear yard may be constructed using a gravel or paved surface.

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

On motion by Mr. Whipple, seconded by Mr. Haizel, the following Resolution memorializing the approval of the application of **Mr. & Mrs. Richard Mitchell, 527 Highland Ave** was adopted as modified, Ms. English abstaining:

WHEREAS, **Mr. & Mrs. Richard Mitchell**, owners of property at **527 Highland Avenue**, 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 permit more than 2½ stories pursuant

to **Montclair Code Section 347-45A(2)**, in connection with a proposed addition to their dwelling on property designated as Lot 34 in Block 904 on the Tax Map of the Township of Montclair and located in the R-1 One-Family Zone; and

WHEREAS, the applicants submitted a property survey prepared by Alfred J. Clark, Inc., dated August 6, 1975, and a plot plan, floor plans, and elevations prepared by John Way, AIA, dated March 25, 2006; and

WHEREAS, this matter came on to be heard at a regular meeting of the Board of Adjustment held on October 18, 2006, 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 an interior lot located in the R-1 One Family Zone measuring 60 feet in lot frontage width and 9,664 square feet in lot area. The subject property contains a single-family dwelling with an attached garage at the first floor level on the northerly side of the dwelling. The property is not located in the Steep Slope Area.

2. The applicants propose to construct an addition at the rear of the dwelling that would contain a basement/lower level, a first floor, a second floor, and an attic level within a half-story. Due to the grade level of property, which slopes downward away from the street, the first floor level is more than 6 feet above the adjoining grade level along the rear wall and sections of the side walls of the dwelling, thereby making the basement level at these areas of the dwelling a story above grade, and creating a total of 3½ stories for the proposed addition.

3. The height of the dwelling would be below the 35 foot maximum; the plan indicates the dwelling measures 33 feet 3 inches at its tallest point. The proposed addition also complies with all other zoning requirements.

4. The Board determined that the variance requested for exceeding 2½ stories is acceptable since the topography of the lot causes the rear of the first floor of the dwelling to be more than 6 feet above grade where the grade level is naturally lower. The requested variance is also acceptable since the effect of the topography on the number of stories is typical for dwellings in the neighborhood and the proposed addition offers a good solution to provide space within the dwelling without causing excessive site disturbance.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicants proved peculiar and exceptional practical difficulties and exceptional and undue hardship and 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 N.J.S.A. 40:55D-70c(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants 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

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the within application of Mr. and Mrs. Richard Mitchell is approved; and

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. Whipple, seconded by Mr. Haizel, the following Resolution memorializing the approval of the application of **Robert and Kathleen Ulrich, 45 Beverly Road** was adopted as modified, Ms. English abstaining:

WHEREAS, Robert and Kathleen Ulrich, owners of property at **45 Beverly Road**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow an easterly side yard setback less than required pursuant to **Montclair Code Section 347-46A(2)(a)** and a rear yard setback less than required pursuant to **Montclair Code Section 347-46A(3)** in connection with the construction of a detached garage on property designated as Lot 24 in Block 4505 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a property survey prepared by Shepard and Shepard, Inc., dated December 30, 1991, and a front elevation and a floor plan, prepared by the applicants; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on October 18, 2006 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 located in the R-1 One-Family Zone and measures 55 feet in width and approximately 8,501 square feet in area. The

subject property contains a 2½-story single-family dwelling and a detached garage in the rear yard, which was damaged by a fallen tree during a storm this past July.

2. The applicant proposes to construct a new detached garage in the same location as the existing garage. The footprint of the proposed garage measures 20 feet wide by 24 feet long. The footprint of existing garage on the property survey has the same dimensions.

3. The property survey indicates that the existing garage has a nonconforming easterly side yard setback of 1.72 feet and 1.59 feet at the easterly side corners of the garage, and a nonconforming rear yard setback of 5.10 feet and 5.05 feet at the rear corners. The same side and rear yard setbacks are proposed for the new garage. A conforming height of 15 feet is proposed.

4. The Board determined that the proposed garage can be approved since its location and size is the same as the location and size of the existing garage on the property and its location is similar to that of many detached garages in the neighborhood.

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 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 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 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 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 within variance application of Robert and Kathleen Ulrich is hereby approved; 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 Mr. Whipple, seconded by Mr. Haizel, the following Resolution memorializing the approval of the application of **John Fitzgerald, 25 Carolin Road** was adopted, as modified, Ms. English abstaining:

WHEREAS, John Fitzgerald, owner of property at **25 Carolin Road**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow a westerly side yard setback less than required pursuant to **Montclair Code Section 347-46A(2)(a)** and a rear yard setback less than required pursuant to **Montclair Code Section 347-46A(3)** in connection with the construction of a detached garage on property designated as Lot 42 in Block 3504 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a property survey prepared by Capasso and Hingos, Inc., dated October 7, 1992, and a plot plan, floor plan and elevations, prepared by Oasis Architecture and Planning, P.C., dated July 30, 2006; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on October 18, 2006 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 located in the R-1 One-Family Zone and measures 60 feet in width and approximately 8,501 square feet in area. The subject property contains a 2½-story single-family dwelling and a detached garage in the rear yard, which was damaged by a fallen tree during a storm on July 18, 2006.

2. The applicant proposes to construct a new detached garage in the same location as the existing detached garage. The applicant indicated that the proposed garage is to be built on the existing foundation that no enlargement is proposed. The footprint of the proposed garage measures 18 feet 6 inches by 18 feet 6 inches. The footprint of the existing garage on the property survey has the same dimensions.

3. The property survey indicates that the existing garage has a nonconforming westerly side yard setback of 2.35 feet and 2.25 feet to the westerly side corners of the garage, and a nonconforming rear yard setback of 4.4 feet. The same side and rear yard setbacks are proposed for the new garage. A conforming height of 13 feet 11 inches is proposed.

4. The Board determined that the proposed garage can be approved since its location and size is the same as the location and size of the existing garage on subject property and its location is similar to that of many detached garages in the neighborhood.

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and did prove 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 the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant 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 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 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 within variance application of John Fitzgerald is hereby approved; 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.

Chair Harrison called the application of **Ayalnesh Ghebremicael, 37 Enfield Avenue**. Tekeste and Ayalnesh Ghebremicael were sworn. Mr. Ghebremicael described the application stated that an addition is proposed to create a second floor for the dwelling. He stated that the new roof will slope in the same way as the existing roof and that the central air units would be located in the rear yard. He also stated that the property is currently vacant.

The Board questioned the applicant. Mr. Ghebremicael stated that the requested variances for front yard setback, side yard setbacks, and building width all represent existing conditions for the one-story dwelling and the addition is in character with the neighborhood. The Board discussed the application. On motion by Mr. Susswein, seconded by Mr. Haizel, the application was approved, subject to the condition that any outstanding property taxes be paid.

Ms. Cockey and Ms. Holloway arrived.

Mr. Sullivan announced that a review of the affidavit of service for the application of **Matthew and Wendy Foley, 178 Alexander Avenue** indicates that it is defective. Chair Harrison stated that the application will be carried to the regularly scheduled December 13, 2006 meeting, that a new newspaper notice will not be done for the new date, and that the applicants will be required to serve the owners on the certified owners list according to the statutory requirements.

Chair Harrison called the application of **16 Portland, LLC, 16 Portland Place**. David Owen, Esq. appeared as attorney for the applicant and described the application. Mr. Owen called Joseph Haines, who was sworn and stated his qualifications an

Architect, and also stated that he is one of the owners of the subject property. Mr. Haines described the application and stated the subject property is a corner lot at the intersection of Portland Place and Maple Place and is located in the "Center Area" of the C-1 Central Business Zone. He stated that the subject property contains a 2-story brick building that was previously used as a Township firehouse and that they propose to renovate the exterior and interior of the building and utilize both floors of the building as an architect's office. He stated that a use variance is requested and that the project has received approval from the Montclair Historic Preservation Commission for the exterior work proposed.

Marked into evidence were:

- A-1 Architectural plans prepared by Dassa Haines, Architects, dated July 27, 2006, on a board
- A-2 Enlarged copy of Sheet A1, with color, on a board
- A-3 Twelve (12) photos of building and neighborhood, on a board
- A-4 Sheet A-2 Elevations on a board
- A-5 Historic Preservation Resolution and Certificate of Appropriateness dated September 21, 2006

Mr. Haines stated that the building on the subject property is attached to the adjoining building located to the east and also described a right-of way that exists on the subject property. He stated that the exterior brick façade of the building is severely damaged, that a hard coat stucco facade would be more appropriate in helping to preserve the building, and that they will be appearing in front of the Historic Preservation Commission for an amendment to the Certificate of Appropriateness on November 16, 2006 on that issue. Mr. Haines stated that the section of Portland Place that is located in the C-1 Zone does not presently contain any retail uses and that only residential uses and some office uses exist on Portland Place. He stated that the building is proposed to be used as an architectural office and described the proposed interior.

The Board questioned Mr. Haines. Mr. Haines described the conditions of the approval from the Historic Preservation Commission. Chair Harrison called for questions and comments from the public.

Susan White, 20 Portland Place, asked if a brick facade was at all possible instead of stucco. Mr. Haines stated that it was but that he believes stucco is a better long term solution for the exterior. He also stated that the adjacent building was restored with hard coat stucco and that stucco will solidify the building and prevent cracking and water leakage.

Mr. Owen called Peter Steck, who was sworn and stated his qualifications as a Planner.

Marked into evidence was:

A-6 Four (4) Photos and Aerial Photograph, with additional information, prepared by Peter Steck, dated November 14, 2006

Mr. Steck stated that the property at one time contained the offices for the Township Water and Tax Departments and that the subject property was historically also used for fire truck storage for at least 20 years. He also stated that the building is a unique property located in the C-1 Central Business Zone and that Portland Place predominantly contains residential uses. He stated that the intent of the "center area" of the C-1 zone is to maintain pedestrian oriented commercial activity, and that the proposed professional office is a permitted use above the first floor. He stated that the building is not suited for retail use and is better suited for office use and that the proposed professional office use is a good transition to the predominantly residential neighborhood on Portland Place. He also stated that the proposed use would have less impact on the nearby residential uses the neighborhood and less impact on street parking and the municipal lot parking. He continued by describing the purposes of planning that are furthered by the application, addressed the negative criteria, and stated that the subject property is particularly suitable for the proposed use.

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

Susan White, 20 Portland Place, was sworn and stated her support for the application.

Mr. Owen summarized the application. The Board discussed the application. On motion by Mr. Susswein, seconded by Mr. Haizel, the application was approved as submitted subject to the following condition:

1. The applicant shall comply with Conditions 1 and 3 contained in Paragraph 8 of the HPC resolution adopted September 21, 2006. Additionally, the applicant shall comply with Condition 2 contained therein or, if approved by the HPC, construct the wall replacing the large garage bay on the rear of the east elevation to be flush with the building rather than recessed.

Chair Harrison called the application of **The Michael Malinowski Family Trust, 192-194 Bloomfield Avenue**. David Owen, Esq. appeared as attorney for the applicant and described the application. Mr. Owen called Martin Dassa, who was sworn and stated his qualifications as an Architect. Mr. Dassa described the application and stated that the applicant is proposing to merge the subject properties, renovate the existing

two-family dwelling located at 192 Bloomfield Avenue, demolish the existing one-story structure at 194 Bloomfield Avenue, and construct a four-story 9-unit residential building along with on-site parking and related site improvements. He stated that the two-family dwelling located at 192 Bloomfield Avenue was built in 1885, is a key building in the Town center Historic District and that the design of the proposed building and site were greatly influenced by the effort to preserve the historic building.

Marked into evidence were:

- A-1 Twenty-one (21) Photographs labeled Board 2, taken during November 2006
 - A-2 Twenty-one (21) Photographs labeled Board 1, taken during April 2006
 - A-3 Free-hand sketch on a board, prepared by Martin Dassa, with color added
 - A-4 Photographs on a board of the existing buildings on adjoining properties on Bloomfield Avenue, with a free-hand sketch of proposed building façade design overlays included to serve as a simulation of the streetscape
- with
- A-5 Floor Plans on a board, with color and notes added by Mr. Dassa

Mr. Dassa stated that the adjoining properties impact the ability to develop the subject property. He also stated that the new building will add to the revitalization of the area that includes the Bay Street parking deck and other new residential development. Mr. Dassa stated that the Essex County Planning Board has reviewed the plan and that the applicant is seeking Board approval prior to resubmission to the County in order to incorporate additional modifications. He described the proposed parking on the property and stated that adequate on-site parking is being provided, although a variance is requested for a parking deficiency of 2 spaces. He stated that proposed development is transit-oriented and that the Bay Street station is nearby. He also stated that there will be additional permit parking available in parking deck being constructed at the Bay Street train station and that the proposed each pair of tandem parking spaces on the site would be assigned to one unit. He continued by stating that each dwelling unit in the proposed 4-story building would contain 2 bedrooms each, and that the 2 units in the two-family house would each be a one-bedroom unit. He further stated that the grade level parking area is not visible from the street.

Marked into evidence were:

- A-6 Rendering of the front facade
- A-7 Design Submission to the Montclair Historic Preservation Commission, prepared by Dassa Haines Architects, dated May 31, 2006

- A-8 Letter to Board Chairman Harrison from Historic Preservation Commission Chairman Lippincott, dated June 29, 2006
- A-9 Certificate of Appropriateness for the demolition of building at 194 Bloomfield Ave, dated July 20, 2006

Mr. Dassa described the design of the exterior of the proposed building and stated that a heavy cornice band was introduced along the front façade above the first floor and that the brick exterior was carried around to the sides of the building. He also stated that the entrance and lobby have been tapered back to improve the site distance for vehicles exiting the garage. The Board questioned Mr. Dassa. Mr. Dassa stated that the effort to preserve of the adjacent historic house and the additional on-site parking required were factors that contributed to the site constraints that prevented including a viable retail space. He also described how vehicles would access the proposed garage entrance if turning left into the garage from Bloomfield Avenue. Assistant Secretary Charreun clarified that a variance is required for the 4 parking spaces that are not independently accessible via the drive aisle and are included as tandem spaces with 4 other spaces.

Chair Harrison called for questions and comments from the public.

Ho Young, owner of 190 Bloomfield Avenue, was sworn and asked if the lack of a commercial component in the proposed development would have a negative impact on businesses to the east of the subject property. He also asked what safety precautions would be used regarding the public sidewalk in front of the garage door entrance.

Stacy Robin Meranus, 50 Pine Street unit 5Q, was sworn. She stated that the height of the proposed building is in character with the neighborhood and that adding retail to the site would bring problems associated with on site parking as well as loitering and littering. She also stated that alarms, sirens, or lights should not be used as a signal for the garage door.

Aldric Fortner, 50 Pine Street, was sworn and stated that any retail on the site would be a detriment to the residential properties in the vicinity. He inquired about the garage door and whether it would be noisy.

Mr. Owen called Jeffrey Morris, who was sworn and stated his qualifications as a Professional Engineer.

Marked into evidence were:

- A-10 Engineering plans, prepared by Boswell Engineering, dated August 3, 2006.

A-11 Board Engineer's letter, dated September 7, 2006

A-12 Letter from Essex County Planning Department to Montclair Planning Board, dated October 11, 2006

Mr. Morris described the existing site and the proposed development. He stated that all the parking spaces measure 9 feet wide by 19 long and that the driveway aisle width measures 24 feet in width. He also described the proposed drainage and stated that all of the stormwater runoff produced by the development is being handled by drainage improvements on the site. He stated the site distance for vehicles exiting the building through the garage door has been improved by recessing and angling the front walls of the ground floor near the garage door. He also stated that pedestrian safety has been improved by adding a painted "Stop" on the driveway within the garage and a speed hump located within the building 5 feet before the garage door. Mr. Morris stated that proposed tandem parking spaces would operate similarly to a single family garage since the tandem spaces are to be assigned in pairs to one unit. He also stated that the proposed parking arrangement is the best layout, and that any other arrangement would result in the loss of parking spaces.

The Board questioned Mr. Morris. Mr. Morris stated that the proposed development would have a low trip generation rate based on industry standards. Mr. Morris described the proposed landscaping in detail and stated that a modified landscape plan is being prepared and will be submitted. He also briefly described the proposed site lighting. Mr. Dassa, who was still under oath, provided additional information on the proposed site lighting and stated that in addition to the 2 wall-mounted fixtures at the front door entrance, there is also a wall-mounted light fixture at the garage door entrance that would light the driveway entrance. Mr. Dassa also described the wall-mounted light fixture at the doorway on the easterly side of the building and stated that the light would not produce glare that would be a nuisance to any nearby residence.

Chair Harrison called for questions from the public. None were offered. Chair Harrison announced that the application would be continued at the next regular meeting of the Board scheduled for December 13, 2006 and that no further notice would be give. Mr. Owen granted the Board an extension of time. On motion by Mr. Haizel, seconded by Mr. Whipple, the meeting was adjourned.