

**MINUTES OF THE BOARD OF ADJUSTMENT
NOVEMBER 20, 2002**

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

ABSENT: None

Secretary Sammet 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.

Secretary Sammet announced that at the request of the applicant, the site plan and variance application of **Michael Walsh, 829 Bloomfield Avenue** has been postponed until the January 15, 2003 regular meeting of the Board of Adjustment, and that no further notice would be given.

Secretary Sammet announced that at the request of the applicant, the minor subdivision and variance application of **BJM Construction, 99 Willowdale Avenue** has been postponed until the December 11, 2002 regular meeting of the Board of Adjustment, that the Board has been granted an extension of time for which to act on the application, and that no further notice would be given.

Secretary Sammet announced that at the request of the applicants, the site plan and variance application of **Michael & Tina Gulich, 4 Rockledge Road** has been postponed until the December 11, 2002 regular meeting of the Board of Adjustment, that the Board has been granted an extension of time for which to act on the application, and that no further notice would be given.

On motion by Mr. Chapman, seconded by Mr. Fleischer, an extension of time was granted on the approval of the site plan and variance application of **Over the Rainbow, 32 Pleasant Avenue**, until November 30, 2003.

Chair Harrison called the site plan and variance application of **Dr. and Mrs. Frank Hoffman, 160 Walnut Street**. Grant Gille, Esq., appeared as attorney for the applicants. Mr. Gille described the application, the history of the property, and the variances requested. Mr. Gille stated that the medical office is a legal pre-existing use within the R-3 zone and that the applicants have been occupying the first floor of the building as a medical office since 1986.

Mr. Gille called Dennis Mylan, Architect and Professional Planner, who was sworn.

Marked into evidence was:

- A-1 Set of plans on 3 sheets, prepared by Mylan Architecture, dated July 23, 2002
- A-2 Site Plan, on a board, with color and additional information, prepared by Mylan Architecture
- A-3a-g Seven (7) photographs of the subject property

Mr. Mylan described the existing conditions on the property and the adjoining land uses. He stated that the subject property was located within the OR-3 Garden Apartment and Office Building Zone when it was first converted to a medical office and two dwelling units in 1985 and that the zoning of the property has since changed to R-3 Garden Apartment Zone. He described the existing and proposed floor plans for the first floor of the building containing the medical office and stated that the existing medical office is not barrier-free and is limited in space. Mr. Mylan also described the proposed additions to the building and stated that the 2 existing dwelling units would remain in their current condition with the exception of an interior stairway modification. He continued by describing the proposed barrier-free ramp, the exterior modifications to the structure, the proposed landscaping, and the proposed relocation of 3 existing central air-conditioning units.

Mr. Mylan described the proposed modifications to the existing 9-vehicle parking area. He stated that the proposed parking area would be striped and that the 5 parking stalls at the rear of the parking area would remain in their existing location and configuration. He also stated that a barrier-free parking stall would be incorporated into the parking area and that 2 of the 9 parking spaces would be compact parking stalls. He continued by stating that an existing Oak Tree would have to be removed in order to accommodate the redesigned parking area and that the applicants would prefer to save the tree and limit the parking area to 8 vehicles. Mr. Mylan stated that the proposed barrier-free ramp would not be constructed over an existing parking space and that new lighting is proposed.

Mr. Mylan stated that the proposed expanded office would not accommodate more practitioners or associates. He also stated that the off-street parking on the site is not utilized by the medical office and residential units concurrently during a 24-hour period and that the number of parking spaces proposed for the site is sufficient. He continued by stating that the medical office use promotes the purposes of zoning by promoting public health and does not pose a substantial detriment to the public good or the Master Plan and Zoning Ordinance.

The Board conducted a re-direct of Mr. Mylan.

Mr. Mylan stated that the relocated air conditioning units could be rotated

in order to meet the required side yard setback. He also stated that each residential unit on the property has 1 parking space allocated to them for overnight parking only.

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

Mr. Gille questioned Mr. Mylan.

Mr. Gille called Barbara Hoffman, who was sworn. Ms. Hoffman stated that she is the co-owner of the property and the office manager for the medical practice. She stated that Dr. Frank Hoffman has been practicing medicine in Montclair most of his professional career, and that the medical practice specializes in internal medicine and pulmonary disease. She also stated that the proposed additions to the building offer much needed additional floor space, that Dr. Hoffman is currently a sole practitioner, and the space containing the medical practice would remain modest in size.

Ms. Hoffman stated that the staff of the medical office arrives at approximately 8:30 a.m. on weekdays. She also stated that Dr. Hoffman sees patients between 9 a.m. and 2 p.m. on Mondays, Wednesdays, and Fridays, and between 9 a.m. and 4:30 p.m. on Tuesdays and Thursdays. She continued by stating that the office is usually closed by 5:15 p.m. on any given night and that the medical practice does not have evening or weekend hours, although they may consider having 1 evening of appointments every other week. She stated that she has full-time hours at the medical office, and that the other 2 employees have part-time hours that range from 20 to 30 hours per week. She continued by stating that the current staff would remain and that the staff would not be expanded.

Ms. Hoffman stated that the proposed rear addition would accommodate an additional examination room that is greatly needed due to the nature of pulmonary disease treatment. She further stated that the additional examination room would assist the medical office in scheduling appointments in a manner that would allow the keeping of timely office hours. She continued by stating that each of the 2 dwelling units in the building have 1 parking space allocated to them in their lease for overnight parking. She also stated that she has never seen the parking area fully occupied and that the medical office staff parks in the rear of the lot while reserving the spaces near the building for patients. She further stated that an additional parking space could be added at the north side of the parking area if the Board so required.

The Board questioned Ms. Hoffman.

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

Chair Harrison called for public comment. None was offered.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Gallardo, it was resolved to

approve the amended site plan and variance application, subject to the following conditions:

1. The applicants shall relocate the 3 air conditioning condensers along the easterly side of the property to provide the required minimum 3 foot setback.
2. The parking area in the rear shall be extended not more than 10 feet to the north to shift parking space 1 further to the rear and to accommodate an additional parking space to be located between parking spaces 1 and 2. The width of the additional parking area shall be the minimum width required to accommodate the relocation of parking space 1 and the new parking space.
3. The existing Oak located within parking space 8 shall be eliminated and the pavement surrounding the tree within the parking space shall be removed. The area shall be paved and the parking space restored in the event the tree dies.
4. All proposed parking spaces in the parking area shall be striped.
5. No more than one doctor shall practice at any one time at the premises.

Chair Harrison called the variance application of **Mark Vespole and Linda Fisher, 92 Montclair Avenue**. Mark Vespole and Linda Fisher, owners and applicants, and Paul Sionas, Architect and Professional Planner, were sworn. Mr. Vespole stated that their family has outgrown the existing home and that a rear addition is proposed to provide more living space. He described the proposed addition, the variances requested, and stated that their property is on a narrow lot measuring approximately 52.5 feet in width. He continued by describing the proposed addition.

Mr. Sionas described the property and stated that the addition would be 2½ stories in height. He also stated that the existing dwelling has nonconforming side yard setbacks and that the proposed addition would be aligned with the existing side walls of the dwelling. He described the proposed roofed front porch and described the requested front yard setback variance. He continued by describing the shape and size of the subject lot and stated that the existing location of the dwelling prevents the construction of a fully conforming addition. Mr. Sionas stated that the addition would contain modern amenities presently lacking in the existing dwelling. He continued by stating that the proposed addition would not have an adverse effect on neighboring properties.

The Board questioned the applicants and Mr. Sionas.

Marked into evidence was:

A-1 Photograph of the front of the dwelling located at the subject property

Mr. Sionas stated that the existing vestibule at the front of the dwelling is set back 36.6 feet from Montclair Avenue and the proposed roof covering the stoop in front of the vestibule would be set back 33 feet from Montclair Avenue.

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

Chair Harrison called for public comment. None was offered.

The Board discussed the application.

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

Chair Harrison called the variance application of **Mr. and Mrs. Strahan, 99 Lloyd Road**. David Owen, Esq., appeared as attorney for the applicants. Mr. Owen described the application and the subject property. He stated that the requested side yard setback variance for the proposed pergola is withdrawn and that the applicants will relocate the pergola so that it would conform to setback requirements. He also stated that the requested variance for 10 off-street parking spaces would not have an adverse impact on adjoining properties and that because the property is unique in character, an approval would not set a precedent.

Mr. Owen called Paul Sionas, Architect, who was sworn.

Marked into evidence was:

A-1 Rendering of the Master Landscape Plan, in color, on a board, prepared by Chuck Baum, Landscape Designer

Mr. Sionas described the property and stated that the existing driveway is in poor condition and has a slope of approximately 20 percent, which is too steep to provide safe and convenient access to the rear of the property.

Marked into evidence was:

A-2 Site Plan, sheet SP-1, prepared by Sionas Architecture, dated November 6, 2002

Mr. Sionas described the proposed driveway and stated that it provides much safer access to the rear of the property. He stated that the 2 existing parking spaces within the first level of the carriage house would be retained and that the proposed attached garage would contain 8 parking spaces and be constructed mostly underground into the slope of the property. He also stated that the proposed driveway leading to the proposed garage and existing carriage house parking spaces would be paved with decorative concrete pavers.

Marked into evidence was:

A-3 Floor Plans, sheet SP-2, prepared by Sionas Architecture, dated November 6, 2002

Mr. Sionas described the floor plans of the proposed addition to the dwelling and stated that the first floor of the addition would contain 6 garage bays and that the second floor of the addition would contain a recreation room. He stated that 2 of the 6 garage bays would be extended deeper in order to stack 2 vehicles within those 2 bays and that a total of 8 parking spaces is proposed within the garage.

Marked into evidence were:

A-4 Elevations, sheet SP-3, prepared by Sionas Architecture, dated November 6, 2002

A-5 Photograph of existing driveway leading to the carriage house

A-6 Rendering of proposed driveway, prepared by Chuck Baum, Landscape Designer

Mr. Sionas stated that much of the existing paving would be replaced by lawn areas as the driveway is relocated. He also stated that the exterior of the proposed addition would match the exterior of the dwelling. He continued by stating that by constructing the proposed addition into the steep slope of the property, the addition would not be visible from Lloyd Road.

Marked into evidence was:

A-7 Photograph of the existing driveway and a rendering of the proposed driveway, both prepared by Chuck Baum, Landscape Designer

The Board questioned Mr. Sionas.

Mr. Sionas stated that the entire driveway would be paved with decorative concrete pavers and that any discrepancy in the plans regarding the paving type for the driveway would be amended.

Michael Petry, Professional Engineer, was sworn. Mr. Petry stated that the proposed driveway would not exceed a slope of 10 percent at its steepest and that the standard for a residential driveway should not exceed 15 percent. He also stated that the existing driveway on the property has a slope of up to 25 percent and that the proposed driveway facilitates the safe movement of vehicles on the driveway.

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

David Greenbaum, 91 Lloyd Road, asked if the 27.5-foot height of the proposed addition includes the 2-foot retaining wall at the bottom of the addition. He also asked what has been determined regarding the drainage impacts of the proposed construction. He also asked if any trees are to be removed from the northerly property line.

Mr. Owen called Michael Strahan, owner and applicant, who was sworn. Mr. Strahan stated that he purchased the property when it was in a state of disrepair and that further renovations are planned for the entire property. He also stated that the Junior League of Montclair-Newark would be utilizing the property in the Spring of 2003 for use as a designers' showhouse. He continued by stating that he is a car collector and that he currently owns 7 vehicles. He stated that the 2 existing parking spaces within the carriage house would be reserved for any potential residents of the carriage house and that he and his wife would use the 8 parking spaces within the proposed attached garage. He stated that he and his wife use 1 vehicle on a daily basis and that the remaining vehicles are used far less frequently. He also stated that he currently parks some vehicles on the paved area in front of the house, and in front of the carriage house, as well as on the properties of friends, and further stated that the lack of convenient and safe off-street parking on the property is a burden for his family.

Mr. Strahan stated that none of the vehicles he stores on the property are used in any sort of commercial activity. He also stated that the plan has been developed with the intent of saving as many trees as possible.

Chair Harrison called for questions from the Board.

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

David Greenbaum, 91 Lloyd Road, asked if any fencing is proposed at the rooftop garden above the proposed addition.

Mr. Owen called Michael Petry, Professional Engineer, who was still under oath. Mr. Petry described the existing retaining walls along the northerly property line and stated that they would remain. He stated that his firm designed the proposed drainage system for the property. He also stated that revised plans were submitted to the Board Engineer on November 8, 2002, addressing the comments of the Board Engineer's letter dated October 23, 2002. He continued by stating that he has had discussions with the Board Engineer regarding a number of the review comments and that the Board Engineer is now satisfied with the revisions to the drainage plan.

The Board questioned Mr. Petry.

Mr. Petry stated that there would be no change in the drainage on adjoining properties as a result of the proposed construction and landscaping.

Mr. Owen stated that the applicants would consent to a stipulated condition of approval that would require the in kind replacement of any trees along the northerly property line that fail as a result of the proposed construction.

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

David Greenbaum, 91 Lloyd Road, asked how his property would be affected by any shadow that may be created as a result of the proposed addition.

Mr. Owen called Peter Steck, Professional Planner, who was sworn. Mr. Steck addressed the variance requested.

Marked into evidence was:

A-8 Photoboard of site and area photographs, prepared by Peter Steck, P.P., dated November 2002

Mr. Steck described the photographs of Exhibit A-8 and described the subject property. He stated that the property is very large in size and that the single-family dwelling on the property contains approximately 30 rooms. He stated that the proposed addition fully conforms to the setback requirements of the ordinance and that the only variance requested relates to the number of off-street parking spaces proposed. He continued by stating that the existing driveway is too steep to provide adequate and safe vehicular movement on the property.

Mr. Steck stated that the variance request could be justified by demonstrating excessive hardship for the applicants as well as demonstrating that the benefits of the application outweigh the detriments. He stated that the purpose of the zoning ordinance in restricting the number of off-street parking spaces is to prevent commercial activities relating to vehicles in a residential zone, limit the residential density on a specific property, and preserve a pleasing aesthetic environment in a residential zone. He continued by stating that issues relating to commercial activities and excessive residential density do not relate to the applicants' proposal and that the issues related to the aesthetics of off-street parking have been addressed by placing all of the proposed parking spaces within a garage. Mr. Steck stated that strict application of the ordinance that restricts off-street parking to 4 vehicles for a single-family dwelling creates a hardship for the applicants because the application meets the intent and purpose of the zoning ordinance.

Mr. Steck stated that the proposed addition is sufficiently screened by landscaping and that there would be no significant negative impact as a result of the proposal. He further stated that the application provides a public benefit by preserving the integrity of the R-0 Mountainside Zone.

The Board questioned Mr. Steck.

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

Chair Harrison called for public comment.

David Greenbaum, 91 Lloyd Road, was sworn and stated that the size and location of the proposed addition could potentially have a significant negative impact on his property and asked that those impacts be considered.

Steven Corso, 117 Lloyd Road, was sworn and stated his support for the application.

The Board discussed the application.

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

1. Any trees along the northerly property line which die due to construction or within one year of the completion of construction shall be replaced with a similar species and within the same location.
2. No more than 10 vehicles shall be stored on the property and those vehicles shall be for personal use only.

Chair Harrison called the minor subdivision and variance application of **Homes of Montclair Ecumenical Corporation, 16 Miller Street**. David Conrad, Esq., appeared as attorney for the applicant. Mr. Conrad described the proposal. He stated that the application submitted mistakenly characterized existing dwelling on the property as a two-family dwelling that would require 4 off-street parking spaces and that the existing dwelling is actually a single-family dwelling that would require 2 off-street parking spaces. He also stated that the application has now been amended to provide the 2 off-street parking spaces and a driveway on the property containing the existing single-family dwelling after the minor subdivision, and that the variance requested from the off-street parking ordinance is no longer being requested.

Mr. Conrad called Beverly Riddick, who was sworn. Ms. Riddick stated that she has been the Executive Director of Homes of Montclair Ecumenical Corporation, also known as Homecorp, since 1996. She stated that the purpose and mission of the organization is to provide affordable and safe housing to low and moderate income families in Montclair. She stated that to date 46 dwelling units in Montclair have been rehabilitated and provided as affordable housing, over half of which are on Miller Street. Ms. Riddick continued by describing the proposed minor subdivision to allow the 5-vehicle parking area on the property to exist on a separate lot from the dwelling on the property. She stated that Homecorp manages several apartment rentals on Miller Street and that off-street parking on Miller Street is unavailable for the residents of these apartments. She further stated that Homecorp is seeking to lease parking spaces in the

5-vehicle parking area to residents of Miller Street in need of off-street parking and that the revenues created from the leasing of parking spaces would go towards the organization's affordable housing programs in Montclair.

Ms. Riddick stated that the parking area would be screened by landscaping. She stated that the proposed subdivision line would bisect the existing driveway, and that an easement would provide an 8-foot right-of-way allowing vehicular access to the 5-vehicle parking area from the driveway. She also stated that the existing gravel surface of the parking area would remain.

The Board questioned Ms. Riddick.

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

Mr. Conrad called Kate Comerford, Architect, who was sworn and stated her qualifications as an architect.

Marked into evidence was:

A-1 Revised site plan of the proposed lot containing the existing dwelling which depicts the proposed 2-vehicle parking area and driveway

Ms. Comerford stated that a new driveway, solely for the use of the existing single-family dwelling, is proposed at the northerly side of the dwelling and would lead to a parking area for 2 vehicles at the rear of the property. She stated that the proposed driveway and parking area on the lot containing the existing dwelling do not require any variances. She described the additional landscaping proposed to screen the proposed 2-vehicle parking area.

Ms. Comerford stated that the proposed lot widths are consistent with many of the existing lot widths in the immediate neighborhood. She further stated that the proposed subdivision and leasing of parking spaces to local residents would improve the off-street parking conditions in the neighborhood and provide substantial benefits.

The Board questioned Ms. Comerford.

Secretary Sammet stated that a portion of the parking aisle for the proposed 2-vehicle parking area on the property containing the existing dwelling will require a variance because a 4-foot setback from the northerly side property line is not provided.

Mr. Sullivan stated that the public notice that was completed as part of the application is sufficient for the Board to grant a side yard setback variance for the proposed 2-vehicle parking area located on the property containing the existing dwelling.

Ms. Comerford stated that the existing driveway on the property, which would be used to access the 5-vehicle parking area, does not provide adequate access to the rear of the property that contains the existing dwelling. She also stated that the proposed driveway at the northerly side of the existing dwelling would allow the owner of that property to completely fence in the property if they choose without impacting the 8-foot right-of-way that is required for accessing the 5-vehicle parking area at the southerly side of the dwelling.

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

Chair Harrison called for public comment. None was offered.

The Board discussed the application.

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

1. A 2-vehicle parking area, accessed from the existing driveway on the property, shall be constructed in the rear yard of the single-family dwelling.

2. The 2 off-street parking spaces required by the existing single-family dwelling on the property shall be constructed with conforming dimensions, and the Board hereby grants a variance from **Montclair Code Section 347-104** in the event that the 2 parking spaces need to be located closer than 4 feet from the subdivision line.

On motion by Mr. Fleischer, seconded by Ms. Rock-Bailey the meeting was adjourned.