

**MINUTES OF THE BOARD OF ADJUSTMENT  
DECEMBER 7, 2000**

PRESENT: Chair Harrison, Vice Chair Church, Mr. Chapman, Mr. Fleischer, Mrs. Freundlich, Mr. Gallardo, Mr. Haizel, Ms. Rock-Bailey, Mr. Williams, also, Michael Sullivan, Esq., and Donald Sammet, Assistant Secretary.

ABSENT: Karen Kadus, Secretary.

Mr. Sammet called the roll and announced the special meeting of the Montclair Board of Adjustment for which notice had been given in accordance with the Open Public Meetings Act.

Chair Harrison called for a continuation of the hearing of **Mr. and Mrs. Scott Troeller, 96 Prospect Avenue**. Calvin Trevenen, Esq., appeared as attorney for the applicants. Mr. Trevenen provided a summation of testimony presented to date.

Marked into evidence was:

A-8 Site Plan with Contours, prepared by Way & Associates, Architects, dated December 7, 2000.

Mr. Trevenen re-called John Way, Architect, Way & Associates, who was still under oath. Mr. Way described the topography of the property. Mr. Way continued by stating that there will be no change to the existing curb cut on Edgewood Terrace and that the driveway along the back of the house would be removed.

Mr. Way described how the applicant is trying to enhance the property by not moving the proposed garage too close to the existing house. Mr. Way stated that the only as-of-right space for the proposed garage is where the porte-cochere is currently located and to place it there would adversely effect the historical architectural qualities of the house.

The Board questioned Mr. Way.

Mr. Williams joined the meeting.

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

Mr. Trevenen called Thomas Lemanowicz, PE, PP, PPE Professional Engineers, he was sworn. Mr. Lemanowicz stated that the required 55 foot front yard setback from Edgewood Terrace eliminates a number of possible locations for the proposed garage. Mr. Lemanowicz stated that if the garage was placed in a conforming location in the southwesterly corner of the property, it would be too crowded. Mr. Lemanowicz

continued by describing alternative locations for the garage and how those alternative locations would disrupt the layout of the property. He stated that if the garage was placed in a conforming location, it would necessitate the retention of the paved driveway in the rear yard or the removal of the in-ground swimming pool.

Mr. Lemanowicz stated that the proposed location for the garage makes efficient use of the property and due to the proposed removal of a portion of the paved driveway, reduces the impervious surface area. Mr. Lemanowicz also stated that due to the layout of the driveways and homes in the neighborhood, headlight glare from vehicles leaving the property would not be a nuisance.

The Board questioned Mr. Lemanowicz.

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

Chair Harrison called for public comment.

Mr. Chris Meyer of 86 Prospect Avenue was sworn. Mr. Meyer stated that he is extremely pleased with the plan as the proposed architectural style of the garage matches that of the existing house and that the proposed location of the garage will make it less visible to them.

The Board discussed the application.

On motion by Vice Chair Church, seconded by Mr. Chapman, the variance application was approved, Mr. Fleischer and Chair Harrison voting in the negative and Mr. Williams and Mr. Haizel abstaining.

Chair Harrison called for a continuation of the hearing on **Kramer Communities, 61 North Mountain Avenue**. Randall Chiocca, Esq. appeared as attorney for the applicant and Cal Trevenen, Esq. appeared as attorney for certain objectors.

Mr. Trevenen called Charles Carrier, 305 Park Street, he was sworn. Mr. Carrier stated that he was interested in purchasing the property before it was sold to the applicant. Mr. Carrier continued by stating that he had hoped to rehabilitate the house on the property so that he could move there with his family. Mr. Carrier stated that he hired a home inspector, fire inspector and a contractor to look at the property and that their conclusion was that the house could be successfully restored. Mr. Carrier also stated that he was in direct negotiations with Mr. Baumann, the previous owner of 61 North Mountain Avenue.

Marked into evidence was:

O-2 Real Estate Advertisement

O-3 Correspondence to Mr. Baumann from Charles Carrier dated June 23, 1999

Mr. Carrier stated that he offered \$435,000 for the property "as is" when he became aware of another interested party. Mr. Carrier stated that it was at this time that he learned that a developer was interested in the property and he eventually learned that the developer was Kramer Communities. Mr. Carrier then stated that Kramer Communities topped his offer on the property.

The Board questioned Mr. Carrier.

Mr. Chiocca cross-examined Mr. Carrier.

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

Mr. Trevenen called Mary Delaney Krugman, Historic Preservation Consultant, she was sworn.

Mr. Chiocca objected to any testimony from Ms. Krugman as the home on the subject property has been demolished. Chair Harrison stated that the carriage house on the property still exists and that the Board should hear testimony from Ms. Krugman.

Marked into evidence was:

O-4 Curriculum Vitae of Mary Delaney Krugman

Ms. Krugman described the history of the property in regard to the zoning districts in which it has been located.

Marked into evidence was:

O-5 Compilation of Montclair Zoning Maps

Ms. Krugman stated that when zoning regulations in Montclair were enacted, there was no R-3 Garden Group Zone.

Marked into evidence was:

O-6 Planning Board Annual Report dated February 24, 1942

Ms. Krugman stated that the Township first considered the creation of garden apartment zones in 1942. Ms. Krugman further stated that the Planning Board Annual Report mentions the conversion of certain single-family homes to multi-family use as a way to help home owners maintain their property. Ms. Krugman explained that the

additional income generated through rentals could help provide the necessary funds for home maintenance.

Marked into evidence was:

- O-7 Compilation of decisions from the Montclair Planning Board and Board of Adjustment

Ms. Krugman stated that 2 variance applications seeking to convert the subject property into multi-family use were denied in the past.

Marked into evidence was:

- O-8 Sanborn map on board
- O-9 R-1 Zone map on board showing pre-existing state/after proposed project prepared by Mary Delaney Krugman

Ms. Krugman described the physical characteristics of the neighborhood. Ms. Krugman stated that more area was added to the R-1 Zone along North Mountain Avenue sometime after 1967. Ms. Krugman also stated that portions of North Mountain Avenue were zoned R-3 in an effort to prevent blight. Ms. Krugman further stated that this is no longer necessary and that the Master Plan Re-Examination Report of 1999 calls for the preservation of single-family residential districts.

Marked into evidence was:

- O-10 Map of the Mountain Historic District
- O-11 Map of the Mountain Historic District showing pre-existing state and after proposed project on board

Ms. Krugman stated that in a historic district, one must look at the neighborhood. Ms. Krugman described the Mountain Historic District as one containing homes designed by noted architects with a number of significant structures located around the Van Vleck mansion. Ms. Krugman also stated that the neighborhood immediately surrounding the subject property is the cornerstone for the rest of the Mountain Historic District.

Marked into evidence was:

- O-12 Van Vleck family neighborhood history and significance with bibliography
- O-13 Set of three sheets of color photographs of homes in the neighborhood
- O-14 Excerpt from the Historic Preservation Element of the Master Plan containing design criteria.

Ms. Krugman stated that new construction should be visually compatible with the historic district in which they are located. Ms. Krugman described the proposed project's

architecture as containing 3 separate façade materials which are not consistent with architecture in the Mountain Historic District when used together. Ms. Krugman further stated that the proposed project is not visually compatible with other properties in the district in terms of scale. Ms. Krugman stated that large, single-family homes on large lots helps to make a house the centerpiece of a property and that the proposed project's design does not reflect this characteristic of the Mountain Historic District. She also stated that the 4 separate buildings proposed on site compete for space on the property. Ms. Krugman summarized by stating that the project would have an adverse effect on the Mountain Historic District in which it is located.

The Board questioned Ms. Krugman.

Mr. Chiocca cross-examined Ms. Krugman.

Chair Harrison called for questions from the public for Ms. Krugman.

Noah Franzblou of North Mountain Avenue asked if the variance requested affected the massing of structures.

Mr. Trevenen conducted a re-direct of Ms. Krugman.

Mr. Chiocca conducted a re-cross of Ms. Krugman.

The Board took a short recess.

Mr. Trevenen called Peter Steck, PP, he was sworn. Mr. Steck described the subject property.

Marked into evidence was:

O-15 Board of photographs on one side and Sanborn map with zoning boundaries super-imposed on the other side

Mr. Steck described the land uses in the neighborhood. Mr. Steck stated that the last Master Plan written in 1986 showed the property in the R-1 Zone and that that plan recommended that the R-1 Zone be extended to the south along North Mountain Avenue. Mr. Steck further stated that the Master Plan recommends that one-family zoning districts be preserved. Mr. Steck also stated that the Master Plan Re-Examination reports of 1992 and 1999 recommend no changes to the zoning districts in the neighborhood. Mr. Steck stated that the R-1 Zone around the subject property contains all single-family homes with the exception of the Van Vleck mansion that is not even visible from North Mountain Avenue.

Mr. Steck stated that the applicant is requesting a "d" variance and that the burden of proof for granting that variance lies with the applicant. Mr. Steck described the

proofs that the applicant provided for granting of the variance and stated that they were inaccurate or insufficient.

Mr. Steck continued by stating that since 1986 the Master Plan calls for the current balance of housing to remain. Mr. Steck further stated that even though the applicant has met the setback and impervious surface requirements of the R-3 Zone, the subject property is not located in an R-3 Zone. Mr. Steck also stated that there may be a demand for the type of housing proposed, but the need for it is not reflected in the Township Master Plan.

The Board questioned Mr. Steck.

Mr. Chiocca cross-examined Mr. Steck.

Marked into evidence was:

A-45 Board of Adjustment Resolution for the Montclair Foundation at 21 Van Vleck Street, dated October 20, 1993

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

Ms. Connie Purdue of 54 North Mountain Avenue stated her support for the project.

Chair Harrison reminded Ms. Purdue that the Board would hear testimony from the public at the conclusion of expert testimony.

Mr. Trevenen conducted a re-direct of Mr. Steck.

Mr. Chiocca conducted a re-cross of Mr. Steck.

Chair Harrison called for public testimony.

Mr. Christos of 345 Claremont Avenue was sworn. Mr. Christos stated that there must be a vision for the Township's future.

Mr. Perry Doerr of 67 Brookfield Road was sworn. Mr. Doerr stated that he looks forward to moving to the type of housing proposed in the future and that many of his peers are also looking to move to a development like the one proposed.

Ms. Connie Purdue of 54 North Mountain Avenue was sworn. Ms. Purdue stated that the proposed project would not have an adverse effect on the neighborhood.

Mr. Trevenen summarized the objector's arguments.

Mr. Chiocca summarized the applicant's arguments.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Williams, the application was unanimously denied.

The meeting was adjourned at 12:55 a.m.