

**MINUTES OF THE BOARD OF ADJUSTMENT
DECEMBER 13, 2000**

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

ABSENT: Mr. Chapman and Mr. Williams

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 Meeting Act.

On motion by Mr. Fleischer, seconded by Ms. Freundlich, the **Minutes of the November 8, 2000** regular meeting were adopted as modified, Ms. Rock-Bailey abstaining.

On motion by Mr. Fleischer, seconded by Ms. Rock-Bailey, the **Minutes of the November 15, 2000** special meeting were adopted as modified, Mr. Haizel abstaining.

Secretary Kadus announced the postponement of the variance application of **Steve Lauda and Ralph LaTorocca, Murray Street**. Calvin Trevenen Esq., attorney for the applicant, consented to an extension of time.

On motion by Mr. Fleischer, seconded by Mr. Haizel, the **2001 Schedule of Meetings** was adopted.

Chair Harrison announced the variance application of **Petia Morozov, 532 Highland Avenue**. Grant Gille, Esq. appeared as attorney for the applicant. Calvin Trevenen, Esq. appeared as attorney for certain objectors. Mr. Gille described the application.

Mr. Gille called Petia Morozov, applicant and owner, she was sworn. Ms. Morozov stated that she acquired the subject property from her parents in 1993 and continued by describing the transfer of ownership of the subject property from 1907 to the present.

Marked into evidence was:

- A-1 Copy of 1907 deed conveying the subject property.
- A-2 Copy of 1926 deed conveying the subject property.
- A-3 Copy of 1946 deed conveying the subject property.
- A-4 Copy of 1950 deed conveying the subject property.
- A-5 Copy of 1966 deed conveying the subject property.

- A-6 Copy of 1968 deed conveying the subject property.
- A-7 Copy of 1972 deed conveying the subject property.
- A-8 Copy of 1993 deed conveying the subject property.
- A-9 Packet of correspondence.

Ms. Morozov stated that her parents bought the property with the intention of developing it, however, when they learned the property was non-conforming they attempted to purchase a 6 foot strip from adjacent property owners in order to make it a buildable lot. Ms. Morozov stated that this offer was denied. Ms. Morozov also stated that she purchased the property knowing that a variance would be needed in order to develop it. Ms. Morozov also stated that she has a contract to sell the property contingent upon the granting of a variance for the deficient lot size.

The Board questioned Ms. Morozov.

Mr. Trevenen cross-examined Ms. Morozov.

Mr. Gille conducted a re-direct of Ms. Morozov.

Mr. Trevenen conducted a re-cross of Ms. Morozov.

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

Mr. Gille called Michael Petry, professional engineer and planner, McCumsey-Petry, he was sworn.

Mr. Gallardo joined the meeting.

Marked into evidence was:

- A-10 Boundary and Topographic Survey, dated July 24, 2000 and Variance Map, dated August 21, 2000, both prepared by McCumsey-Petry.
- A-11 Tax map and topographic map on board.
- A-12 Eight photographs on board.
- A-13 Colored boundary and topographic survey on board, dated July 24, 2000, prepared by McCumsey-Petry.
- A-14 Colored variance map, dated August 21, 2000, prepared by McCumsey-Petry.

Mr. Petry described the subject property and adjacent properties. Mr. Petry continued by stating that the subject property has a 25% grade with the highest elevation being 475 feet and the lowest elevation at the street line at 434 feet. Mr. Petry stated that a home could be built on the lot and meet setback requirements. He stated that the slope on the lot is the same as the other lots on this portion of Highland Avenue.

Mr. Petry also stated that the recommendations in the memo from Board Engineer Watkinson to the Board could all be met.

The Board questioned Mr. Petry.

Mr. Trevenen cross-examined Mr. Petry.

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

Chair Harrison asked that the Planning staff research past zoning regulations in order to determine what the minimum lot width was when lots 15 and 16 were in common ownership in 1968.

Chair Harrison announced that the application would be carried to the January 17, 2001 regular meeting of the Board and that no further notice would be given. Mr. Gille consented to an extension of time.

The Board took a short recess.

Mr. Fleischer left the meeting.

Chair Harrison announced the variance application of **Maryanne and Patrick Fenelon, 1 Ferncliff Terrace**. Maryanne and Patrick Fenelon, applicants and owners, were sworn. Mr. Fenelon described his property and stated that the primary entrance to the home is in the rear of the dwelling. Mr. Fenelon stated that the air conditioning units proposed are both approximately 3 feet wide, by 3 feet deep, by 3 feet high, and that 2 units are needed in order to cool the entire house.

Mr. Fenelon stated that the dwelling is placed on a slab concrete foundation which prohibits them from locating the air conditioning units in many locations around the house. Mr. Fenelon also stated that a sunporch exists on the rear of the dwelling, and that air conditioning units placed there would be a nuisance. Mr. Fenelon said that the units could not be placed in the side yard of the dwelling since it would not meet the required setback and would also be very close to the adjacent dwelling.

Marked into evidence was:

- A-1 Five photographs mounted on manila paper.
- A-2 Two photographs mounted on manila paper.
- A-3 Landscape plan, prepared by Blue Meadow, dated December 1, 2000.

Mr. Fenelon stated that although some shrubs would need to be removed to install the units, new landscaping is proposed in order to provide additional screening. Mr. Fenelon continued by stating that the proposed location is the easiest for both installation and maintenance.

The Board questioned Mr. and Mrs. Fenelon.

Chair Harrison called for questions from the public for Mr. and Mrs. Fenelon. None were offered.

The Board discussed the application.

On motion by Ms. Freundlich, seconded by Mr. Gallardo, it was resolved to approve the variance application subject to the following condition:

1. The applicants shall adhere to the portion of the landscaping plan for the westerly side of the principal structure, prepared by Blue Meadow Landscape Architects, dated December 1, 2000.

Chair Harrison announced the variance application of **John and Grace DePaola, 558 Park Street**. Calvin Trevenen, Esq. appeared as attorney for George Egan, objector. Mr. Trevenen requested a short recess so that he may confer with the Township Planning staff.

Mr. Sammet left the meeting to confer with the John and Grace DePaola, Mr. Trevenen and Mr. Egan.

Chair Harrison announced the variance application of **Sherwood and Dugar Racine, 60 North Willow Street**. Chair Harrison stated that a similar application was denied by the Board previously, and asked the applicants if they could show that their application was substantially different. Mrs. Racine stated that they propose to place the parking area on the right side of the porch stairs rather than the left side as previously proposed and that the right side of the porch has more space for the parking area. The Board decided that the change in the application was substantial enough to hear the application.

Sherwood and Dugar Racine, applicants and owners, were sworn. Mr. Racine stated that the parking area is proposed to the right of the porch stairs. Mr. Racine stated that no parking is available on-street and that alternate parking areas have proved to be unsafe in that their cars have been broken into numerous times. Mr. Racine also stated that 13 feet exist between their side property line and porch steps and approximately 22 feet exists between the front of the porch and white retaining wall in the front yard.

Mr. Racine continued by stating that neighbors are unable to provide a parking space for them.

Marked into evidence was:

A-1 Letter from Wayne Randall.

Mrs. Racine stated that the closest parking area is far from the house and that there is a lack of street lighting in the neighborhood, creating an unsafe environment.

Mr. Sammet re-joined the meeting.

The Board questioned the applicants.

Chair Harrison called for questions from the public for Mr. and Mrs. Racine. None were offered.

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

The Board discussed the application.

On motion by Mr. Gallardo, seconded by Ms. Rock-Bailey, it was resolved to approve the variance request subject to the following conditions:

1. The parking space created shall not encroach into the public right-of-way.
2. The parking space shall be located on the northerly side of the steps in the front of the principal structure.

Chair Harrison announced the variance application of **John and Grace DePaola, 558 Park Street**. John and Grace DePaola, applicants and owners, were sworn. Calvin Trevenen, Esq. appeared as attorney for George Egan, objector. Mr. DePaola stated that they propose to replace an old, dilapidated, two-car garage with a new two-car garage. Mr. DePaola stated that there is a slightly larger building footprint due to the construction materials proposed. Mr. DePaola also stated that the second story of the proposed garage would be used for storage. Mr. DePaola described the existing garage as 20 feet long and that the proposed garage measures 24 feet long. Mr. DePaola further stated that the proposed garage would measure 12 inches wider than the existing.

Mr. Trevenen stated that his client would consent to the building of a new garage in the proposed location but requests that the height of the structure be reduced. Mr. DePaola stated that he would scale down the proposed height to conform to the zoning requirement of 15 feet, eliminating his need for a height variance.

The Board questioned Mr. and Mrs. DePaola.

Chair Harrison called for questions from the public for Mr. and Mrs. DePaola. None were offered.

Chair Harrison called for public comment. None was made.

The Board discussed the application.

On motion by Ms. Rock-Bailey, seconded by Mr. Haizel, it was resolved to approve the side-yard setback variances subject to the following conditions:

1. The rear wall and southerly side wall of the garage shall be constructed on the existing setback lines.
2. The northerly side wall of the garage shall be no closer than 2 feet to the northerly property line.

The meeting was adjourned at 11:12p.m.