

MINUTES OF THE BOARD OF ADJUSTMENT
December 10, 2003

PRESENT: Chair Harrison, Ms. Cockey, Ms. Costello, Vice Chair Fleischer, Mr. Flood, Mr. Gallardo, Mr. Haizel, Ms. Rock-Bailey and Mr. Susswein; also, Mr. Sullivan, Esq., Mr. Sammet, Secretary, and Mr. Charreun, Assistant Secretary

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.

On motion by Mr. Gallardo, seconded by Ms. Cockey, the **Minutes of the November 19, 2003** regular meeting were adopted, Vice Chair Fleischer, Mr. Flood, and Ms. Rock-Bailey abstaining.

On motion by Mr. Gallardo, seconded by Ms. Rock-Bailey, the **2004 Schedule of Regular Meetings** was adopted as modified.

On motion by Mr. Gallardo, seconded by Mr. Haizel, the following Resolution memorializing the approval of the variance application of **Roger L. Johnson, 500 Grove Street** was adopted, Vice Chair Fleischer, Mr. Flood, and Ms. Rock-Bailey abstaining:

WHEREAS, Roger L. Johnson, owner of property at **500 Grove Street**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow for a side yard setback less than required pursuant to **Montclair Code Section 347-46A(2)(b)** 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 22 in Block 3607 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 November 12, 1990 and floor plans and elevations with no preparer or date indicated, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on November 19, 2003 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 a corner lot located at the intersection of Grove Street and Bellevue Avenue, measures approximately 8,660 square feet in area, and contains a 2½-story single-family dwelling and the remnants of a collapsed detached garage in the northwesterly corner of the property.

2. The applicant's proposal is to construct a detached garage, measuring 18 feet in width by 18 feet in depth, which conforms to the height requirement and the setback requirement from Grove Street but does not meet the westerly side yard setback and rear yard setback requirement of 6 feet.

3. The applicant proposes to construct the new garage in the same location as the previously existing garage. A westerly side yard setback of approximately 2.1 feet and a rear yard setback of approximately 2.2 feet are proposed in lieu of the required 6 feet.

4. The location of the dwelling on the property, as well as the small size of the rear and side yards, limit the ability of the applicant to provide the required setbacks for the proposed detached garage.

5. Based upon the Board's particular knowledge of local conditions, the proposed detached garage is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

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 Roger L. Johnson is hereby approved, subject to the following condition:

1. The proposed detached garage shall be constructed on the same footprint as the previously existing garage and not be any larger than the previously existing garage.

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. Gallardo, seconded by Mr. Susswein, the following Resolution memorializing the approval of the variance application of **Mark Haefeli, 129 Llewellyn Road** was adopted, Vice Chair Fleischer, Mr. Flood, and Ms. Rock-Bailey abstaining:

WHEREAS, Mark Haefeli, owner of property at **129 Llewellyn Road**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow for a side yard setback less than required pursuant to **Montclair Code Section 347-34A(2)(a)** and a rear yard setback less than required pursuant to **Montclair Code Section 347-34A(3)** in connection with the construction of a detached garage on property designated as Lot 56 in Block 1102 on the Township Tax Map and located in the R-0 Mountainside Zone; and

WHEREAS, the applicant submitted a property survey prepared by William J. Darmstatter, dated October 13, 1999 and a site plan, floor plans and elevations prepared by John Thomas Collins, Architect, dated July 2003, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on November 19, 2003 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 has a street frontage width of approximately 57.17 feet and measures approximately 9,634 square feet in area. The property contains a 2½-story single-family dwelling and a driveway on the westerly side of the dwelling that does not lead to a detached garage or a separate parking area.

2. The applicant's proposal is to construct a detached garage, measuring 20 feet in width by 20 feet in depth, which conforms to the height and easterly side yard setback requirements but does not meet the rear yard setback requirement of 10 feet and the westerly side yard setback requirement of 12 feet.

3. The applicant proposes a westerly side yard setback of 4 feet and a rear yard setback of 4 feet, in lieu of the 12 feet and 10 feet required, respectively.

4. The location of an existing utility pole and trees in the rear yard, as well as the small size of the rear yard, limit the ability of the applicant to provide the required setbacks for the proposed detached garage.

5. The applicant indicated that an earlier property survey depicts a previously existing detached garage, of the same dimensions and located in the same location and as the proposed garage, and that prior owners of the property demolished the garage because it had become dilapidated.

6. Based upon the board's particular knowledge of local conditions, the proposed detached garage is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

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 Mark Haefeli is hereby approved, subject to the following conditions:

1. The proposed detached garage shall be constructed on the same footprint as the previously existing garage and not be any larger than the previously existing garage.

2. The applicant shall submit to the Planning Department a copy of the earlier survey depicting the previously existing detached garage on the property.

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. Gallardo, seconded by Mr. Haizel, the following Resolution memorializing the denial of the site plan and variance application of **Vizzone Family Realty, LLC, 7 North Mountain Avenue** was adopted, Vice Chair Fleischer, Mr. Flood, and Ms. Rock-Bailey abstaining:

WHEREAS, Vizzone Realty, L.L.C., did make application to the Board of Adjustment of the Township of Montclair to utilize the existing building for medical office use on property located at 7 North Mountain Avenue and designated as Lot 34 in Block 1402 on the Township Tax Map and located in the R-3 Garden Group Zone; and

WHEREAS, the applicant sought relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d as the proposed medical office use is not permitted pursuant to Montclair Code Section 347-53;
2. A variance pursuant to N.J.S.A. 40:55D-70c to allow twenty-two parking spaces where a minimum of twenty-six parking spaces is required pursuant to Montclair Code Section 347-101;
3. A variance pursuant to N.J.S.A. 40:55D-70c to allow parking in the front yard and parking spaces within six feet of the principal building contrary to Montclair Code Section 347-58D;
4. To allow two (2) free-standing business identification signs which are not permitted pursuant to Montclair Code Section 347-110;
5. A variance pursuant to N.J.S.A. 40:55D-70c to allow nonconforming directional signs contrary to Montclair Code Section 347-108J(1); and

WHEREAS, the applicant submitted a site plan, floor plans and elevations prepared by Francis C. Klein and Associates, Architects, sheets A-0 through A-6, A-10 dated September 17, 2003 and sheets A-7 and A-9 dated September 18, 2003 as well as a property survey prepared by Seneca Survey Co., Inc. dated September 20, 2001; and

WHEREAS, this matter came on to be heard at regular meetings of the Board of Adjustment held on October 15 and November 19, 2003 at which time it was established the 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 applicant plans to utilize the existing building as a medical office, enclose an existing porch, construct a barrier-free ramp, install two (2) free-standing signs and redesign an existing parking area. In connection with the proposed medical office use the first floor use would include exam rooms, offices, waiting room and x-ray room, the second floor would be utilized for office and the basement and third floor use would be limited to storage only.
2. By resolution adopted February 16, 1983 the Board of Adjustment granted a use variance to allow a specialized business office with very limited client contact at the property in what was previously a three-family dwelling.

3. The proposed medical office use is a much more intense use than what was previously approved on the site and would result in increased traffic and noise which would cause substantial detriment to the neighborhood.

4. The applicant failed to prove "special reasons" or that any purposes of the Municipal Land Use Law would be advanced by the granting of this application. The fact that the existing house is being retained is legally insufficient for the granting of the use variance.

5. The applicant failed to prove the proposed site is "particularly suited" for the proposed use and alternate uses permitted by the Ordinance are available.

6. The applicant failed to offer any proof that the proposed use is not inconsistent with the intent and purpose of the Master Plan.

7. Based upon the Board's particular knowledge of local conditions, the application with its increased traffic and noise would cause substantial detriment to the public good.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicant failed to prove the requisite "special reasons" for the granting of the application and failed to prove 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 failed to prove peculiar and exceptional practical difficulties and exceptional and undue hardship and failed to 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 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 failed to prove that the purposes of the Municipal Land Use Law would be advanced by a deviation from the Zoning Ordinance requirements, and failed to prove 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 Vizzone Family Realty, L.L.C. is hereby denied.

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

Secretary Sammet announced that the variance application of **Michael F. Emrich, 194 Bloomfield Avenue** would be carried to the January 21, 2004 regular meeting of the Board of Adjustment because the applicant did not complete the mailing of the public notice for the application. He also stated that no further notice for the application would be published, however, the applicant would be completing the mailing of the public notice for the January 21, 2004 regular meeting of the Board.

Secretary Sammet announced that the site plan and variance application of **The Salvation Army, 159 Glenridge Avenue** has been postponed at the request of the applicant until the January 21, 2004 regular meeting of the Board of Adjustment, that the applicant has granted the Board an extension of time through January 21, 2004 for which to act on the application, and that no further notice would be given.

Secretary Sammet announced that the variance application of **Donna Grant and Tim Gaydos, 89 High Street** has been postponed at the request of the applicants until the January 21, 2004 regular meeting of the Board of Adjustment, that the applicants have granted the Board an extension of time through January 21, 2004 for which to act on the application, and that no further notice would be given.

Vice Chair Fleischer called the variance application of **Judith M. Stanton, 785 Valley Road**. Judith M. Stanton, owner, was sworn and described the proposed addition. She stated that the proposed addition to the second floor would be constructed over an existing one-story section of the dwelling. She further stated that the proposed addition would contain a new bedroom on the second floor and that the additional space is needed for her growing family.

Chair Harrison joined the meeting.

The Board questioned Ms. Stanton.

Ms. Stanton stated that in order to provide a doorway to the new bedroom from an existing second floor hallway, the proposed second floor addition is larger than the first floor section below it and that the second floor would extend approximately 2 feet further towards the rear. She also that the proposed addition would be aligned with the existing front and southerly side walls of the existing first floor and that the southerly side property line is angled, which causes the side yard setback to be further reduced toward the rear of the dwelling.

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

The Board discussed the application.

On motion by Mr. Susswein, seconded by Mr. Haizel, the variance application was approved, subject to the following condition:

1. The proposed second floor addition shall be aligned with the front wall and southerly side wall of the existing first floor below it.

Chair Harrison called the variance application of **John & Eva Callahan, 222 Upper Mountain Avenue**. David Owen, Esq., appeared as attorney for the applicants and described the application.

Mr. Owen called Paul Sionas, who was sworn and stated his qualifications as a Licensed Professional Architect and Licensed Professional Planner in the State of New Jersey and described the proposed roofed entry porch. He stated that the existing roofed entry porch is 3 feet deep and that the applicants propose to extend the masonry stoop an additional 2 feet towards Upper Mountain Avenue. He also stated that the existing steps of the front entrance would remain and that a new roof would be constructed over the proposed extended stoop, and that larger columns would be used to support the new porch roof.

Mr. Sionas stated that the existing roofed entry porch is in need of repair and that the design and scale of the proposed roofed entry porch would be more in keeping with the dwelling than the existing roofed entry porch. He stated that the required front yard setback for the subject property is 197.5 feet, due to the average front yard setback of adjacent dwellings. He continued by stating that the existing front porch is set back 154.2 feet from Upper Mountain Avenue, and that a front yard setback of 152.2 feet is proposed for the new front porch.

Marked into evidence were:

- A-1 Photoboard of subject property
- A-2 Sheet SP-1 of the plans, prepared by Sionas Architecture, P.C., dated August 6, 2003
- A-3 Sheet SP-2 of the plans, prepared by Sionas Architecture, P.C., dated August 6, 2003

Mr. Sionas described Exhibit A-1 and stated that portions of the existing roofed entry porch are deteriorating. He stated that the requested variance could be granted due to the location of the existing dwelling on the lot and because the proposed roofed entry porch promotes a desirable visual environment by eliminating a deteriorated porch and replacing it with a porch that is more functional and in keeping with the scale of the dwelling. He also stated that the proposal accomplishes one of the established goals of the Master Plan by maintaining and preserving estate properties in the R-0 Zone, and that granting the requested variance would not result in any type of substantial detriment.

The Board questioned Mr. Sionas.

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

The Board discussed the application.

On motion by Mr. Gallardo, seconded by Mr. Fleischer, the variance application was approved.

Chair Harrison called the site plan and variance application of **Dr. Anthony Scriffignano, 124 Watchung Avenue**. Robert Gaccione, Esq., appeared as attorney for the applicant and described the application. He described the variances requested and stated that pursuant to Section 40:55D-70d(6) of the Municipal Land Use Law a “d” variance is required for the proposed height of the building addition because the proposed height exceeds the permitted height by more than 10%. He stated that the existing dwelling unit on the second floor of the building would be eliminated and that the existing outdoor dog runs would be replaced by interior pet boarding.

Mr. Gaccione called Dr. Anthony Scriffignano, owner, who was sworn. Dr. Scriffignano stated that he has had his veterinary office on the first floor and a dwelling unit on the second floor of his property since 1985 and that use of the property has been the same for around the last 65 to 70 years. He stated that his office hours are 7 am to 7 pm on Mondays, 7:30 am to 5 pm on Tuesdays, Wednesdays consists of only office staff on the site and there are no client visits, Thursdays from 7:30 am to 5:30 pm, Fridays from 8 am to 2:30 pm, and Saturdays from 9 am to 2:30 pm. He also stated that he has 8 to 9 employees and that 6 or 7 employees maximum are on the site at any one time. He further stated that peak time for client visits is between 3 pm and 5 pm and that this peak period consists of between 9 and 12 clients at any one time.

Dr. Scriffignano stated that his employees park in the rear parking area, as well as on the street, and that clients park in the front and rear parking areas. He stated that 1 other doctor works with him, however, that no more than 1 doctor is on the site at any one time. He also stated that a trash receptacle is kept in the rear yard and that trash and medical waste disposal for the site is done by a private contractor. He continued by stating that the additional space provided by the proposed addition would provide the space needed for the new equipment required to modernize the facility. He also stated that the apartment on the second floor would be eliminated and that the basement and third floor and would be used for storage only and have no heating. He further stated that the dog runs outside the building would be eliminated and placed inside the building on the second floor. He continued by describing the proposed temporary trailer and stated that it would kept on the site only during construction and that a reduced staff and services would be provided during that time, as well as emergency services.

The Board questioned Dr. Scriffignano.

Dr. Scriffignano stated that the temporary trailer would be used for examinations only and that procedures would be referred to the Verona office. He also stated that a

staff of 3, consisting of 1 doctor, 1 assistant, and 1 administrative person would work in the temporary trailer.

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

Mr. Gaccione called Thomas Ercolano, who was sworn and stated his qualifications as a Licensed Professional Architect in the State of New Jersey.

Marked into evidence were:

A-1 Photoboard of the subject property

A-2 Floor Plans and Elevations, on a board, prepared by Thomas F. Ercolano, A.I.A., dated June 20, 2003

Mr. Ercolano described the existing building and the site. He also described the proposed addition and stated that a new stucco façade would be applied to the entire exterior of the building. He continued by describing the proposed floor plans and the height of the proposed addition and stated that the roofline of the addition would match the existing roofline of the building. He stated that a "d" variance is required for the height of the addition and that the proposed height of the addition is aesthetically correct for the building. He continued by stating that the exterior central air conditioning units would be removed and that the new air conditioning units would be placed inside the building. He also stated that existing wood fence at the rear of the lot would remain and that existing chain link fencing on the site would be removed. He described the proposed site lighting and stated that all lights would shine downward and that no glare would spill onto adjoining properties. He also stated that the existing on-site parking would remain as it is. Mr. Ercolano described the proposed location of the temporary trailer and stated that the front yard location would be the safest location for the trailer during construction. He also stated that the proposed addition is an appropriate way to improve the building and the veterinary office use.

The Board questioned Mr. Ercolano.

Mr. Ercolano stated that a commercial size gutter could be placed along the easterly side of the building to prevent rainwater from the roof of the proposed addition from spilling onto the adjoining property.

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

Mr. Gaccione summarized the application and gave his closing remarks.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Gallardo, the variance requested for the height of the proposed addition was denied, and the variances requested for impervious surface coverage, off-street parking, and the location of a temporary medical office trailer, as well as the request for site plan approval, were approved, subject to the following conditions:

1. The basement shall be utilized for storage only and the third floor shall be utilized only for storage and utilities including air conditioning units.
2. The existing residential use shall be eliminated.
3. No exterior air conditioning units shall be permitted.
4. The proposed addition shall not encroach on the adjacent property owner to the north.
5. The applicant shall install soundproofing in the pet boarding areas as testified to at the public hearing.
6. During construction the property owner shall install signs prohibiting client parking on site.
7. The entrance to the trailer shall be on the Watchung Avenue side.
8. The trailer shall not be permitted on site more than six months following the date of commencement of construction. The applicant shall provide the Planning Department with written notification of commencement of construction. Additionally, the trailer shall be removed within two weeks following the end of construction.
9. The applicant shall pay any required development fees to the Montclair Housing Trust Fund in accordance with Montclair Code Section 202-39 et seq.
10. The applicant shall be responsible for all inspection fees required under Montclair Code Section 202-27 as well as escrow fees incurred in connection with the review of this matter.

The Board took a short recess.

Chair Harrison called the site plan and variance application of **Montclair Homes, LLC, 8 South Mountain Avenue**. David Owen, Esq., appeared as attorney for the applicant and Owen Hughes, Esq. appeared as attorney for an interested party who is objecting to the site plan and variance application.

Marked into evidence were:

- A-1 A copy of the Proof of Publication of the public notice from the Montclair Times

A-2 A copy of the Affidavit of Service

Chair Harrison, Mr. Sullivan, and Mr. Owen discussed the Board's jurisdiction over the application and it was agreed that the Board of Adjustment has jurisdiction on the present application. Mr. Owen described the background of the application and stated that the applicant had applied for and received preliminary and final site plan approval from the Planning Board for a substantially similar development. He stated that the proposal calls for the renovation of an existing one-family dwelling and the construction of 4 additional dwelling units on the site, 2 of which are freestanding units and 2 of which are attached units, to be sold by the applicant as 5 condominium units. He stated that the applicant's position is that the proposed development is a multifamily development and that the proposed dwellings should be treated as "multifamily dwellings", although none of the structures proposed in the development meet the definition of a "multifamily dwelling" found in the zoning ordinance. He also stated that the proposal involves a "D" variance request, which would necessitate a use variance for one or more of the following reasons: the dwellings proposed in the multifamily development deviate from the definition of "multifamily dwellings", the proposal calls for the development of more than 1 principal building on the lot in terms of single-family and two-family dwellings, or that a d(6) variance is required for the height of certain dwellings with attached garages. He continued by describing the settlement and dismissal of the lawsuit regarding the Planning Board's prior approval of the development and stated that the applicant has abandoned the Planning Board's approval.

Chair Harrison stated that the proposed development consists of one-family and two-family dwellings and that a use variance is required.

Mr. Hughes, Esq. stated that he is representing Michael J. Murphy, of 648 Grove Street, Montclair and that the Planning Board approval has been abandoned and cannot be resurrected without a revised plan.

David Bershad, 28 South Mountain Avenue, stated that he is in the process of acquiring an attorney, and asked whether the hearing on the application would be continued so that his attorney may comment on his behalf.

Mr. Owen proceeded with his opening statements and described the proposal and the variances and waivers requested. Mr. Owen called Peter Meyer, who was sworn and stated his qualifications as a Licensed Professional Engineer in the State of New Jersey. Mr. Meyer described the existing conditions on the site and the abutting land uses. He stated that the applicant proposes to maintain the existing dwelling and construct 4 additional dwelling units on the site. He also stated that the design allows for decentralized parking on the site and for enhanced landscaped buffering. He stated that the proposal is sensitive to the steep slope requirements and that much of the existing landscaping is being preserved. He further stated that the proposed style of residential development allows for additional light, air, and open space around each of the proposed dwelling units. Mr. Meyer described the driveway and parking areas and

stated that they are in compliance with zoning ordinance and the New Jersey Residential Site Improvement Standards. He also stated that the Board Engineer has reviewed the plans and that the applicant would comply with the recommendations made in the Board Engineer's September 19, 2003 letter. He described the proposed retaining walls and landscaping on the site and stated that additional hedges could be added in areas of the site to provide additional screening of the on-site parking areas.

Marked into evidence were:

- A-3 Engineering Plans, on 8 sheets, prepared by PPE Corporation, dated August 4, 2003
- A-4 Drainage Report, prepared by PPE Corporation, dated August 4, 2003
- A-5 Board Engineer's letter to the Board of Adjustment, dated September 19, 2003
- A-6 Essex County Planning Board approval, dated September 23, 2003
- A-7 Site Plan, Sheet 4 of 8, with color on a board, prepared by PPE Corporation, dated August 4, 2003

The Board questioned Mr. Meyer.

Mr. Meyer stated that the 7-foot tall retaining wall proposed in the side yard would be reduced to two 4.5-foot tall sections in order conform to the zoning ordinance. He also stated that the proposed carport attached to Unit B could be enclosed to eliminate a variance. He also stated that the topography of the site was a factor in the design and configuration of the proposed development.

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

Allyn Hobeck, 17 North Mountain Avenue, asked if the applicant had considered any problems associated with vehicular egress to South Mountain Avenue from the site. He also asked if a front yard setback requirement should be applied to the proposed dwellings from the driveway on the site.

Mr. Hughes cross-examined Mr. Meyer.

Chair Harrison called for further questions from the public for Mr. Meyer.

Mr. Owen stated that Essex County is no longer requiring the 10-foot wide reservation strip.

Mr. Meyer stated that the applicant proposed to utilize private trash pick-up, which would use a van-sized vehicle.

Tara Williams, 26 North Mountain Avenue, asked if a traffic impact study was done and if an entrance to the site is proposed from Bloomfield Avenue.

Susan Bershad, 28 South Mountain Avenue, asked where the overflow parking on the site was located and where the nearest legal street parking was located. She also asked if the driveway on the site could ever become a public street.

Arvids Blodnieks, 19 North Mountain Avenue, asked if the applicant had considered the traffic impacts.

Mr. Owen stated that a Traffic Engineer would be providing testimony regarding traffic issues.

Marked into evidence was:

A-8 Board Engineer's letter to the Planning Board, dated March 4, 2003.

Chair Harrison announced that application would be continued at a special meeting of the Board, to be held on February 4, 2004 and that no further notice would be given.

On motion by Mr. Gallardo, seconded by Ms. Rock-Bailey, an extension of time was granted on the approval of the site plan and variance application of **Evergreen I, LLC, 29 Park Street**, until March 31, 2004.

On motion by Mr. Gallardo, seconded by Mr. Haizel, an extension of time was granted on the approval of the variance application of **Joe Spruill, 177 Orange Road**, until September 30, 2004.

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