

**MINUTES OF THE BOARD OF ADJUSTMENT
DECEMBER 12, 2001**

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

ABSENT: Ms. Brooks and Mr. Sammet, Assistant Secretary

Secretary 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 Meetings Act.

On motion by Mr. Chapman, seconded by Ms. Costello, the **Minutes of the November 7, 2001** regular meeting were adopted as modified, Mr. Fleischer, Mr. Gallardo, Ms. Rock-Bailey, and Mr. Susswein abstaining.

On motion by Mr. Chapman, seconded by Mr. Fleischer, the **2002 Schedule of Regular Meetings** was adopted.

On motion by Mr. Chapman, seconded by Ms. Costello, the following Resolution memorializing the approval of the variance application of **Denis Orloff and Amy Wax-Orloff, 349 Park Street** was adopted, Mr. Fleischer, Mr. Gallardo, Ms. Rock-Bailey, and Mr. Susswein abstaining:

WHEREAS, Denis Orloff and Amy Wax-Orloff, under contract to purchase property at **349 Park Street**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70c to allow for a front yard setback less than that required pursuant to **Montclair Code Section 347-45B(2)** in connection with the construction of an addition on property designated as Lot 1 in Block 3505 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicants submitted a property survey prepared by Dominick J. Venditto, III, dated October 9, 1998 and a site plan and elevations prepared by Oasis Architecture and Planning, P.C., dated August 28, 2001, 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 7, 2001 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 at the intersection of Park Street and Summit Avenue and contains a one-story building used as a medical office.
2. The existing structure on the property has a non-conforming front yard setback of 49.9 feet along Park Street due to the unusually large setback of the adjacent dwelling on Park Street.
3. The applicants' proposal is to construct a 1½-story addition over the existing one-story structure and a 3½-story addition at the easterly side of the existing structure.
4. The proposed front yard setback along Park Street will also be 49.9 feet as measured from the closest portion of the addition foundation wall to the front lot line.
5. The 3½-story addition at the easterly side of the existing structure meets all height and setback requirements.
6. The proposed conversion from a medical office, a non-conforming use, to a single-family dwelling, a conforming use, would be beneficial to the surrounding 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 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 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 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 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 variance application of Denis Orloff and Amy Wax-Orloff is hereby approved, subject to the following condition:

1. The addition shall be built no closer to the front property line along Park Street than the existing structure.

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. Chapman, seconded by Mr. Haizel, the following Resolution memorializing the approval of the variance application of **Penelope and William Hobbie, 241 North Mountain Avenue** was adopted, Mr. Fleischer, Mr. Gallardo, Ms. Rock-Bailey, and Mr. Susswein abstaining:

WHEREAS, Penelope and William Hobbie, owners of property at **241 North Mountain Avenue**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70c to allow for a front yard setback less than that required pursuant to **Montclair Code Section 347-45B(2)** in connection with the construction of an addition, a deck, and 2 roofed porches on property designated as Lot 1 in Block 1701 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicants submitted a property survey prepared by EKA Associates, P.A., dated May 20, 1996 and architectural drawings prepared by Sionas Architecture, P.C., dated September 17, 2001, 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 7, 2001 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 at the intersection of North Mountain Avenue and Watchung Avenue and contains a 2½-story one-family dwelling.
2. The existing dwelling on the property has a non-conforming front yard setback of 29.06 feet along Watchung Avenue due to the greater setback of the adjacent dwelling on Watchung Avenue.
3. The applicants' proposal is to construct a 2½-story addition at the rear of the dwelling which conforms to all height and setback requirements, a roofed porch at the southwesterly corner of the dwelling, a deck and a second roofed porch in the Watchung Avenue front yard.
4. The roofed porch at the southwesterly corner of the dwelling has a proposed front yard setback of 26.85 feet along Watchung Avenue as measured from the closest portion of the porch to the front lot line. The deck and the second roofed porch have proposed front yard setbacks of approximately 35 feet each for the Watchung Avenue front yard.
5. The second roofed porch is proposed to be built in line with existing

southerly wall of the dwelling and the proposed deck represents a minimal intrusion into the required front yard setback for the Watchung Avenue front yard.

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 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 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 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 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 Penelope and William Hobbie is hereby approved,

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. Chapman, seconded by Mr. Haizel, the following Resolution memorializing the approval of the variance application of **Steven Lauda and Ralph Latoracca, Murray Street**, was adopted, Chair Harrison, Mr. Fleischer, Mr. Gallardo, Ms. Rock-Bailey, and Mr. Susswein abstaining:

WHEREAS, owners Julia Lauda, Arthur Lauda, Rosalind La Torraca and Ralph LaTorraca and applicants Steven Lauda and Ralph LaTorraca (collectively hereinafter "the applicants") did make application to the Board of Adjustment of the Township of Montclair, to construct a single family residence on property designated as Lot 20 in Block 103 on the Township tax map and located in the R-1 One Family Residential Zone; and

WHEREAS, the applicants requested the following relief:

1. A variance pursuant to *N.J.S.A. 40:55D-70c* which requires a building lot to front on a public street pursuant to Montclair Code Sections 347-20 and 202-22A(2).
2. To direct issuance of a building permit since the lot does not abut a street giving access to the proposed home pursuant to *N.J.S.A. 40:55D-35,36*.

WHEREAS, the applicants submitted a site plan and details of the proposed residence prepared by DeGrace Architects and Engineers dated September 12, 2001 (hereinafter the "site plan"); and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on November 7, 2001 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 applicants contemplate construction of a single family home on the vacant 1 acre tract which contains 300 feet of frontage on Murray Street in Montclair. A triangular portion of the southwestern corner of the property is located within the Township of West Orange.

2. Murray Street runs between Valley Way in Montclair and Mountain Avenue in West Orange, which becomes Undercliff Road in Montclair.

3. Murray Street is a dedicated unimproved street never formally accepted by the Township of Montclair.

4. By resolution adopted May 22, 1986, the Planning Board granted preliminary major subdivision approval to permit 3 lots subject to a number of conditions which is abandoned as part of this application.

5. To require the subject lot to front on a fully improved street would entail practical difficulty and unnecessary hardship and is not justified to provide access to the proposed single family home. Approval of this application will result in less paved area and will avoid creating double street frontages on adjacent properties located on Briar Hill Road. Such action represents a public benefit and advances the general welfare consistent with the purposes of the Municipal Land Use Law.

6. At the direction of the Montclair Fire Department, the applicants' plan includes a 16 foot wide gravel drive to meet the improved portion of Murray Street in West Orange which will provide adequate access for fire fighting equipment. Ambulances and other emergency vehicles will have adequate access via the 12 foot wide paved driveway from Valley Way in Montclair.

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)*;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application for variance and other relief to permit construction of a single family home is hereby approved subject to the following conditions:

1. The applicants have abandoned the preliminary subdivision approval granted by the Montclair Township Planning Board by resolution adopted on May 22, 1986.

2. As set forth in the site plan, the applicants' development shall be limited to one single family dwelling without accessory structures on Block 103, Lot 20.

3. As also set forth in the site plan, access to the aforesaid single family dwelling shall be via a private driveway that will run between the single family dwelling and Valley Way in Montclair Township, and this driveway shall conform in width (12 feet maximum), layout, and all other respects to the site plan.

4. The aforesaid driveway shall not extend westward (i.e., towards West Orange Township) any greater distance than as set forth in the site plan and, as a consequence, shall not extend into West Orange Township or provide access to any road or street in West Orange Township (however, a 16 foot wide gravel drive, shall be constructed as set forth in the site plan, shall meet existing Murray Street in West Orange Township, and shall be used only for fire protection purposes).

5. The aforesaid driveway shall be used only for access and only for the owner of Block 103, Lot 20 and shall not be used as a joint driveway by any other person or for any other purposes.

6. The applicants, as well as any of their successors in interest who might acquire or receive Block 103, Lot 20, having agreed to the special conditions of their application, hereby release and give up any and all rights to seek to construct or to construct either a private or public street in the area now designated on the Montclair Township tax maps and in the site plan as Murray Street or the Murray Street right of way and commonly known as the Murray Street "paper street".

7. The applicants shall apply to the governing body of the Township of Montclair prior to issuance of any building permits and in any event no later than one year from the date of this resolution to request that portion of Murray Street between the boundary of West Orange Township and Valley Way in Montclair Township be vacated except for easements allowing utility connections.

8. The applicants shall comply with items 2, 4, 5, 6, and 7 contained in the Board of Adjustment Engineer's memorandum dated October 3, 2001.

9. The owner of the subject property shall be responsible for maintaining the sanitary sewer up to the right of way line of Valley Way.

10. No disturbance of the right of way shall be permitted in the area between the 16 foot wide gravel drive and the 12 foot wide paved driveway.

11. Prior to commencing any clearing or other development, the applicants shall submit, with copies to Peter Meyer, P.E., storm water calculations for review and approval of the Board of Adjustment Engineer considering the runoff from the paved portion of Murray Street and the 16 foot wide gravel drive.

12. The limit of construction and the proposed silt fence as shown on the site plan shall be relocated so that there shall not be any disturbance to the existing planter on Block 103, Lots 15 and 19.

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

Secretary Kadus announced the withdrawal of the variance application of **Dawn Ciamacco, 198 Forest Street**, and that Ms. Ciamacco will contact the Township's Parking Advisory Committee for a permit to allow on-street parking.

Secretary Kadus announced the postponement of the variance application of **David and Mary Ellen Gray, 171 Wildwood Avenue** to the Board's January 16, 2002 meeting and that no further notice will be given.

Secretary Kadus announced the postponement of the variance application of **Rising Mount Zion Baptist Church, 27 Monroe Place** to the Board's January 16, 2002 meeting and that no further notice will be given.

Chair Harrison called the site plan and variance application of **Pasquale Gangala, 151 Pine Street**. Grant Gille, Esq., appeared as attorney for the applicant. Mr. Gille stated that the applicant is seeking a use variance to permit the storage of commercial vehicles in a residential zone and a variance to permit the parking of more than 5 vehicles on the property. Mr. Gille stated that the existing tenant parking area and the 2 garages on the property are in poor condition. He also stated that presently, Mr. Gangala uses one of the garages on the property to store a truck and trailer used in his landscaping business. Mr. Gille continued by stating that Mr. Gangala has completed many updates and renovations to the two-family building on the property and that he would like to renovate the yard area, create a new tenant parking area, demolish the existing garages and construct a new garage in order to continue the storage of the commercial vehicles. Mr. Gille then stated that the applicant's plan has been revised to reflect a reduced footprint for the proposed garage, in which the depth of the proposed structure was reduced from 50 feet to 30 feet.

Marked into evidence was:

- A-1 Revised site plan on a board, prepared by Nicholas J. Netta, Architect, dated November 18, 2001
- A-2 Planting Plan on a board, prepared by Landesigns of Montclair, Inc., dated November 30, 2001
- A-3a-j Photographs (10) of the garages and the residential building at 151 Pine Street

Mr. Gille called Robert DeNiscia, Professional Planner, who was sworn.

Mr. DeNiscia stated the applicant's property is unique due to the size of the lot. He stated that the applicant currently uses one of the garages on the property to store his commercial vehicles and, although he had no first hand knowledge, he had been told that the other garage was previously used as an auto repair shop by a previous owner. He stated that one garage on the property is only 13 feet from the residence and that the second garage further to the rear is in a state of disrepair. He further stated that the impact of the present storage of commercial vehicles on the property is negligible because it is located within a garage.

Mr. DeNiscia stated that replacing the existing garages on the property with one new garage would improve the aesthetics and utility of the rear yard by reducing the overall square footage of accessory structures on the property by 200 square feet and locating the garage in the most suitable location. He continued by stating that the existing commercial vehicle storage on the property would not be changed or increased. Mr. DeNiscia summarized his testimony by stating that the applicant's proposal is a minimal alteration of an existing non-conforming use which would not impair the intent and purpose of the Zone Plan.

The Board questioned Mr. DeNiscia.

Mr. DeNiscia stated that he has no knowledge of whether the existing non-conforming use of commercial vehicle storage was legally permitted or if it pre-dates the ordinance.

The Board questioned Mr. Gille.

Mr. Gille stated that the applicant does not reside at the property located at 151 Pine Street.

Chair Harrison called for questions from the public.

Philip Freedman, 150 Pine Street, asked Mr. DeNiscia if the applicant's proposal could still be considered an improvement of the property if indeed the storage of commercial vehicles did not exist prior to the applicant purchasing the property, and whether or not his present opinion has been formed largely on the assumption that the proposed use is a legal non-conforming use. Mr. Freedman also inquired about the locations of other commercial uses in the surrounding neighborhood.

Maxine Bergner, 150 Pine Street, inquired about the present tenant parking layout for the applicant's property. Ms. Bergner also inquired about the present plumbing and access configuration for the basement level of the applicant's property and why the present proposal could not be constructed at 174 Pine Street, which is zoned C-2 and is owned by the applicant.

Tony Ianuale, 37 Cloverhill Place, inquired about the number and type of vehicles presently stored on the applicant's property.

Mr. Gille called Pasquale Gangala, applicant and owner of 151 Pine Street who was sworn. Mr. Gille questioned Mr. Gangala. Mr. Gangala stated that he purchased the property in May of 2001 and that he does not reside there. Mr. Gangala also stated that he presently stores a 20-foot long dump truck and a 16-foot long trailer within the garage nearest to the residence on the property. He continued by stating that these vehicles presently back into the driveway then into the garage. He further stated that he does not currently run his landscaping business from the property at 151 Pine Street nor does he intend to.

Mr. Gangala described the renovations and updates to the residence that he has completed since he purchased the property. He stated that the basement of the property does contain a bathroom, but is not used as an office. He continued by stating that he does not use any portion of the residential building for any personal use and that the office for his landscaping business is at his home in Parsippany, New Jersey.

Mr. Gangala described the existing parking configuration on the property and stated that the pavement on the site is presently in a state of disrepair. He continued by describing the proposed garage, new tenant parking configuration, new paving, and landscaping. He further stated that he was not certain of the previous use of the garages, however that he is inclined to believe one garage was used as an auto repair shop because of the presence of a key drop-off located on the wall.

The Board questioned the applicant.

Mr. Gangala stated that the landscaping vehicles presently leave 151 Pine Street at 7:30 a.m. and return around 5:00 p.m. on a typical workday. He also stated that the doors of the proposed garage could be reduced in height if necessary.

Chair Harrison called for questions from the public.

Philip Freedman, of 150 Pine Street, questioned the applicant about the vehicles he stores at his other property on Pine Street and why the applicant needs a garage the size of the proposed garage to store vehicles and equipment that presently fit into the smaller existing garage.

Tony Ianuale, of 37 Cloverhill Place, inquired about the number and type of vehicles presently stored on the applicant's property. Mr. Ianuale also inquired about the number and type of motorized equipment that would be stored on the property as well as any fuel storage.

Maxine Bergner, of 150 Pine Street, asked the applicant if the basement of the residence at 151 Pine Street has an external entrance.

Chair Harrison called for public comment.

Philip Freedman, of 150 Pine Street, was sworn. Mr. Freedman stated that commercial vehicles began being stored when the applicant purchased the property at 151 Pine Street and that to his knowledge no commercial activity had existed there previously.

Tony Ianuale, of 37 Cloverhill Place, was sworn. Mr. Ianuale stated that he had never witnessed any commercial activity on the site prior to the applicant's purchase of the property. He also stated that no further disturbance of the residential zones in the Pine Street area should be allowed.

Maxine Bergner, of 150 Pine Street, was sworn. Ms. Bergner stated that the property has been illegally used in a noncompliant fashion.

Philip Freedman, of 150 Pine Street, still under oath, stated the applicants have not provided a basis for the granting of the use variance.

Mr. Gille gave his closing statements and summarized the application.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Chapman, it was resolved to deny the site plan approval and variance request, Mr. Susswein abstaining.

Chair Harrison announced the variance application of **Frank Curto, 51 Walnut Street**. Jack Soriano, Esq. appeared as attorney for the applicant. Mr. Soriano cited the previous variance application submitted in 1996 by the applicant for the property at 51 Walnut Street concerning the commercial use located on the property. Mr. Soriano stated that the applicant has improved the residential building since he purchased the property. Mr. Soriano continued by describing the applicant's proposed plans to add a third dwelling unit to the residential building on the property.

Mr. Soriano called Frank Curto, applicant and owner of property at 51 Walnut Street, who was sworn. Mr. Soriano questioned Mr. Curto. Mr. Curto described the upgrades made to the property that he has complied with all of the Board's requirements concerning the approved 1996 variance. Mr. Curto continued by describing the present application, pointing out that no new floor area is proposed for the third floor dwelling unit and that the proposal is to modify the building by raising the roof at the rear of the building to create headroom for the proposed third unit on the third floor. Mr. Curto stated that the third floor has been sublet to 2 boarders by the second floor tenants. Mr. Curto described the existing landscaping on the site and the location of the trash receptacles.

The Board questioned Mr. Curto.

Mr. Curto described the existing layout of the third floor unit and the proposed modifications to provide more headroom for the kitchen and stairway areas. He also confirmed that there are 7 existing tenant parking spaces and stated that he has never used the building as a three-family residence.

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

Mr. Soriano called Steven Corso, Architect, who was sworn. Mr. Soriano questioned Mr. Corso. Mr. Corso described the existing uses on the property, the existing and proposed floor plans of the building, and the existing and proposed elevations. Mr. Corso stated that the applicant's proposal would improve the fire safety of the building. He further stated that, with the exception of the building modification, no changes are proposed to the site. He also stated that he had conducted research using Township tax records and prepared a land use map to illustrate the use of the properties within 200 feet of 51 Walnut Street.

Marked into evidence was:

A-1 Land Use Map of the Properties Within 200 Feet of 51 Walnut Street

Mr. Corso stated that the majority of the properties within the R-2 Zone near the applicant's property are non-conforming multifamily homes. He also stated that the applicant's proposal enhances the public safety by improving the ingress and egress of the residential building and that the applicant would conform to all of the State requirements concerning multifamily dwellings, which would further increase the safety of the building. Mr. Corso continued by stating that the proposed use would not have a detrimental effect on the surrounding area and that the applicant does not require any bulk variances for the proposal.

The Board questioned Mr. Corso.

Mr. Corso stated that currently the first floor apartment has two means of egress, and that the second floor has only one means of egress. Mr. Corso also stated that the two properties to the left of the applicant's property are currently multifamily residences that contain a commercial use on the property.

Chair Harrison called for question from the public.

Philip Freedman, of 150 Pine Street, inquired about the existing multifamily residences in the surrounding R-2 Zone and whether these properties received variances or if they pre-date the ordinance.

Chair Harrison called for public comment.

Philip Freedman, of 150 Pine Street, was sworn. Mr. Freedman stated that the applicants have not provided a basis for the granting of a use variance, and that the addition of a third dwelling unit to this property would be detriment to the neighborhood and set a bad precedent in the R-2 Zone.

Mr. Soriano summarized the application.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Gallardo, it was resolved to deny the variance application, Ms. Rock-Bailey voting in the negative and Mr. Susswein abstaining.

Chair Harrison announced the variance application of **Montclair Cooperative School, 65 Chestnut Street**. Ira Karascick, Esq., appeared as attorney for the applicant. Mr. Karascick described the applicants' proposal, the variance sought, and the work that had been done up to that point on the school property.

Mr. Karascick called Samuel Huber, the director of the Montclair Cooperative School, who was sworn. Mr. Huber described the age groups that are enrolled at the school. He stated that the previous fence, which enclosed the property, was dilapidated and unsightly and has been replaced in all areas except the corner of the property at the street intersection. He also stated that the proposed 5½-foot fence is necessary due to the existing multifunctional climber used by the younger students in the playground proximate to the corner of the property where a 2½-foot fence is required.

The Board questioned Mr. Huber.

Mr. Huber stated that the proposed fence is located on the property line because they do not want to reduce the existing playground area any further because it is already non-conforming in size. He also stated that the multifunctional climber is

required to be at least 6 feet away from any fence. He further stated that moving the multifunctional climber would require a total redesign of the playground.

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

Mr. Karascick called Elizabeth McLoughlin, P.P., Professional Planner, who was sworn. Ms McLoughlin stated that she is familiar with the property and that she has one daughter presently attending the Montclair Cooperative School and another daughter who recently graduated from the school. Ms. McLoughlin stated that she has taken photographs of the site and surroundings.

Marked into evidence was:

A-1 Photographs and site plan, on board

Ms. McLoughlin stated that the existing stop sign on Forest Street at the intersection of Chestnut Street, the location of the intersection at the crest of a hill, and the fact that the proposed fence would be 15 feet in from the street line, are all circumstances that provide the required sight triangle visibility at the intersection. She further stated that the proposed fence would be a wrought iron fence, which would also improve visibility at the corner.

Marked into evidence was:

A-2 Boundary and Topographic Survey of 65 Chestnut Street, prepared by Bertin Engineering Associates, Inc., dated June 27, 1997, on a board

Ms. McLoughlin stated that the proposed fence would not impair the purpose and intent of the Zone Plan or create a dangerous situation. She also stated that the required 2½-foot fence is not appropriate for a school playground. Ms. McLoughlin continued by stating that the applicant has demonstrated particular hardship due to the existing under-sized playground and that the granting of the variance request would promote the purposes of planning due to the school being an inherently beneficial use and therefore a fence protecting the school children is as well. She further stated that the proposed fence is more aesthetically pleasing and would provide an improved visual resource.

The Board questioned Ms. McLoughlin.

Ms. McLoughlin stated that the 6-foot separation between the multifunctional climber and the fence is a State Requirement.

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

Chair Harrison called for public comment. None were offered.

Mr. Karascick summarized the application.

The Board discussed the application.

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

1. The fence to be installed at the northeast corner of the property shall be set back from the street lines forming the corner of Chestnut and Forest Streets, a distance which is to be determined by a 6-foot separation between the fence and the existing multifunctional climber.

2. All landscaping located within the triangular area at the northeast corner of the lot, 2 sides of which are formed by 25-foot lengths of the intersecting street lines of Chestnut and Forest Streets shall be maintained at a maximum height of 2½-feet.

3. The fence to be placed at the corner of the property shall be an open fence for which the applicant shall submit design specifications.

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