

MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF CLIFTON
August 14, 2024
7:00 P.M. REGULAR MEETING (RESCHEDULED)

COMMISSIONERS PRESENT:

DAVID BRAID (1A)
ALESSIA ERAMO
MAUREEN O'CONNOR
SCOTT SOCHON
MICHAEL MOLNER
GEORGE FOUKAS
VICE CHAIRMAN SCORZIELLO
CHAIRMAN ZECCHINO

ALSO PRESENT:

Nicholas Graviano, P.P., Board Planner (via Zoom)
Anthony Kurus, P.E., Board Engineer
Liana Bolcato, Asst. Zoning Officer
Jessica Sweet, Esq., Counsel/Secretary

Chairman Zecchino called the Meeting to Order at 7:00 p.m.; he led the entire assembly in the Pledge of Allegiance to the Flag of the United States of America. Pursuant to the "Open Public Meeting Law" public notice of this rescheduled Regular Meeting date was published in the Record and Herald News on June 30, 2024. All notice requirements were satisfied. Chairman Zecchino announced the time, place, and form of notice as well as advising all applications that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

CONTINUED HEARINGS

1. TFJ Hazel LLC/iLearn Schools, 252 Hazel Street and 237 West 3rd Street; Block 16.11, Lots 1 and 2; Zone: R-B2

Joshua Koodray, Esq., appeared on behalf of the applicant. Chairman Zecchino polled the Board to determine availability for a special meeting on Monday, September 23, 2024, at 7:00 pm. The Board agreed to be available, and the Chairman announced that a special meeting will be held on that date.

2. AMEER SIGNS 1240 Main Ave., Bl. 11.16, Lot 2; Zone: BC

Chairman Zecchino announced that the application will be carried to September 4, 2024, at the Applicant's request, with no further notice.

NEW HEARINGS

1. SHERIF HABIB, 27 Sixth Ave., Bl. 16.16; Lot 17, Zone: RB-1

Chairman Zecchino announced that this application will not be heard due to a notice defect; the applicant will renote, and the application will be rescheduled to September 4, 2024.

2. MOHAMMAD JABER, 42 Prospect St., Bl. 15.09, Lot 23; Zone: RB-1

The applicant is proposing an addition and conversion of existing one family home to a two-family home which requires the following variances; side yard setback proposed at 6.56' where 12' required, combined yard setback proposed at 18.56' where 24' required, and driveway proposed at 0' where 5' required. Property contains sufficient area and width for the 2-family use (slightly oversized at 10,000 SF/100' x 100'). The single side yard setback of 6.56' is an existing condition, due the attached garage. The combined side yard setback is a new condition, should be 24', where 18.58' is proposed. Per Ord. § 461-15B(1)c, the required driveway setback is 5', where 0' is proposed.

Mohammed Jaber appeared *pro se*. He testified that he wants to construct an addition to the house that will require the side yard setback combined variance. He testified that he wants to construct a new addition to provide living space for his elderly mother.

Commissioner Eramo asked how far the house is from the proposed driveway; Mr. Jaber testified that it will be 12' wide, and there is a 4-5' setback to the neighbor's driveway. In response to a question from the Board attorney regarding the need to expand the house to the side, Mr. Jaber testified that he cannot expand to the rear due to the rear yard setback condition, which is already at the maximum. He does not want to expand the house to build a second story because he has a number of small children and wants to have a private first floor space for his mother. He wants to create a two-family home to provide additional income and share expenses with family members.

Vice Chairman Scorziello makes a motion to deny. Commissioner Foukas seconded the motion; voting to deny are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

3. KEVIN YORKS & LAUREN POTOCZNIK, 58 Melody Hill Rd., Bl. 44.07, Lot 19, Zone: RA-3

The applicants are proposing an addition to their single-family home which requires the following bulk variance; side yard setback proposed at 4.78' where 6' required. Pre-existing nonconforming condition to be continued with proposed two-story addition.

Mr. Yorks and Ms. Potoczniak appeared *pro se*. Architect Enkela Malellari was sworn in and provided her qualifications, which were accepted as an expert in the field of architecture; Ms. Malellari testified that the plans submitted in support of the application were prepared under

her supervision. She testified that the property is an oversized lot in the RA-3 zone and provided an overview of the zoning requirements applicable to the property. Ms. Malellari testified that the applicants are proposing to demolish the existing house down to the foundation and to construct a new two-story house on the existing foundation. They are a young family that is growing and are in need of additional space. Ms. Malellari testified that the basement will be left open. The variance that is requested is for the pre-existing side yard setback from the foundation. Commissioner Molner asked about the attic area; Ms. Malellari testified that the attic will be accessed by a hatch.

At the conclusion of the testimony, Commissioner O'Connor makes a motion to approve, seconded by Vice Chairman Scorziello; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

Due to a delay in appearance of Counsel for Applicant New Hope School, the Board moved on to Adoption of Resolutions and Minutes.

ADOPTION OF MEMORIALIZING RESOLUTIONS/MINUTES

1. **DAVID ABRAMCHIK**, 80 Nugent Dr., Block 69.01, Lot 1.21; Zone: R-A3
Approval of bulk variance relief from the minimum combined side yard and rear yard setback, maximum height (stories) and lot coverage requirements to construct an addition to an existing single-family home.

Commissioner Molner made a motion to approve. Vice Chairman Scorziello seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

2. **ZALMAN & NURIT GURKOV** 87 Virginia Ave.; Block 50.09, Lot 19; Zone: RA2
Approval of bulk variances from minimum individual and combined side yard setback, rear yard setback, and maximum lot coverage requirements to construct a first- and second-floor addition to a single-family home.

Commissioner Foukas made a motion to approve. Vice Chairman Scorziello seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chairman Scorziello, and Chairman Zecchino.

3. **JASON FRIEDMAN** 367 Rutherford Blvd., Bl. 58.10, Lot 18; Zone: RA3
Approval of bulk variance relief from requirements pertaining to driveway serving a garage, and minimum number of parking spaces to convert existing garage at a single-family home into living space.

Commissioner Molner made a motion to approve. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chairman Scorziello, and Chairman Zecchino

4. 62 LAKE AVENUE, LLC, 62 Lake Ave., Bl. 4.16, Lot 42; Zone: RB3

Approval of bulk variance relief from the minimum requirements pertaining to lot area, lot width, front yard setback, side yard setback (individual and combined), rear yard setback, and driveway setback, as well as maximum lot coverage, to tear down existing single-family home and erect a new single-family home.

Commissioner Molner made a motion to approve. Commissioner Foukas seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chairman Scorziello, and Chairman Zecchino

5. CATHOLIC CHARITIES, DIOCESE OF PATERSON, 23 Vincent Dr., Bl. 63.04, Lot 3; Zone: R-A1

Approval of application for preliminary and final site plan approval to construct new handicap accessibility ramps from the entry points to new group home, with bulk variance relief from the minimum lot width, front and side yard setback requirements.

Vice Chairman Scorziello made a motion to approve. Commissioner Sochon seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chairman Scorziello, and Chairman Zecchino

6. PSE&G, 121 St. Andrews Blvd & Mt. Prospect Ave., Block 41.08, Lots 1 & 2; Zones: M-2 & RA-2

Approval of conditional use variance relief to permit the permanent installation of a 20' x 56' sound wall along the southeast edge of the Athenia Switching Station, together with the temporary installation of an 18' sound wall, pending construction of the permanent sound wall.

Vice Chairman Scorziello made a motion to approve. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chairman Scorziello, and Chairman Zecchino

7. Minutes of the July 17, 2024 Regular Meeting.

Commissioner Sochon made a motion to approve. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Braid, Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

8. Minutes of the July 31, 2024 Special Meeting.

Commissioner Sochon made a motion to approve. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Eisenmann, Eramo, O'Connor, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

At 7:40 p.m., a recess was taken due to a delay in the appearance of counsel for New Hope School.

At 8:00 p.m., the Board reconvened and went back on the record upon arrival of counsel for Applicant New Hope School.

NEW HEARINGS

4. NEW HOPE SCHOOL, 76-78 DeMott Ave., Bl. 12.15, Lot 23, Zone: RB-1

Elizabeth Durkin, Esq. entered her appearance on behalf of Applicant New Hope School. Ms. Durkin stated that her first witness would be the President of the for the Applicant, Lincoln Legrotteria. Mr. Legrotteria testified that he is the President of the Board for the School, which is a private K-8 school. Mr. Legrotteria testified that the subject property currently contains a church and a pastor's residence, as well as classroom space in an area formerly used as a nursery school by the Church. He stated that the School is working to begin operations just after Labor Day, as they suddenly lost their lease on the other space. They have 47 total students registered; 60 is the maximum that the school can handle; it operates M-F 9-3, early care at 8, after care between 3-5. The principal is very hands-on and assists with after care. They have blended classrooms K & 1; 2&3, etc. They have 7 teachers, 9 if you include the principal and his wife, who also teach classes. As for drop-offs, Mr. Legrotteria testified that there is a safe corner where they propose to have drop-off for students; the principal also serves as the crossing guard and directs traffic. After school, pick up will be handled by having the children in a blacktop playground area, some children will be picked up at 3, it is often staggered, since many children stay for late care. The busiest time is around 4-4:30.

Chairman Zecchino stated that he is familiar with their existing school location on Clifton Avenue, and has been to that site during pick up, found it somewhat chaotic, and expressed concerns about the potential for queuing in front of the adjacent homes. Mr. Legrotteria stated that the queuing will not be as significant as the traffic experienced by the existing church on weekends. He further stated that the school is very involved in the neighborhood and surrounding community, and they want to meet the neighbors. As a small school, everyone knows each other and the parents are conscientious to the neighbors. Chairman stated that the negative criteria and impacts on the neighbors is the Board's biggest concerns, recognizing that this is an inherently beneficial use. Mr. Legrotteria stated that they have thought very hard about the site improvements and the ways in which the site will work. They want to take the tables out of the rear portion of the site and put the parking lot there. Mr. Legrotteria testified that the school's lease on its other site was terminated due to an ownership change in February. Mr. Legrotteria testified that they do not have any buses; all students are driven by parents.

VC Scorziello asked what the connection is between the school and the church; Mr. Legrotteria stated that the school is not directly related to the church; they are separate entities. The school has operated continuously in Clifton since 1996; it is a small private nondenominational school with a maximum capacity of 60 children. In response to a question about capacity from Cmr. Foukas, Mr. Legrotteria testified that 63 was the most children they ever had, during COVID, but they will not increase beyond 60 (hard cut-off). Cmr. Molner asked about the plans; they will wait for the architect's testimony.

Board Planner Graviano stated that the relationship between the Church and the School raises a question- if there is no legal affiliation between the Church and the school, they do consider those to be separate entities, so a D1 use variance for more than one principal use on the lot will be required.

Chairman Zecchino then opened the hearing to interested parties.

- Camilla Alaspar asked if the church use will continue. Mr. Legrotteria stated that he is unsure about what will happen on Sundays, but the school will operate Monday-Friday.
- Prof. Robert Mireno, 56 Demott Ave., asked if the students are Clifton residents. Mr. Legrotteria stated that more than half of the students are Clifton residents. Prof. Mireno stated that the Church has been a quiet neighbor. Mr. Legrotteria stated that it is in their best interest to attract Clifton students as it helps their funding. Prof. Mireno stated that there is a significant parking problem in this neighborhood, and asked if the applicant has sufficient land to build. Chair stated that they are not building anything, just reusing the existing buildings. How many teachers? 7 teachers not including the principal, so 8 staff members. Mr. Legrotteria stated that many teachers share rides. Mr. Mireno stated that the church members are not considerate of the residents and there is a significant parking problem.

In response to a question from Cmr. Eramo, Mr. Legrotteria stated that the church will continue to operate as usual on Sundays; the school will not operate on the weekends.

- Manish Baden, asked if the church is still doing activities Monday-Friday, funerals, weddings, etc.? Will the church be doing activities on weekdays? Mr. Legrotteria stated that based on the contract that the school has with the Church, the Church has to allow the School use and operation of the school premises. Mr. Baden stated that he lives in the neighborhood and has people blocking the driveway during funeral services.
- Chairman Zecchino stated that he would like to have someone from the church testify to the extent of the Church's use of the building and area during the week. Mr. Legrotteria stated that he has had some pretty strong conversations with the pastor as to potential conflicts. This was chosen because it is a quiet church with limited activity.
- Vice Chairman Scorziello asked Mr. Baden to provide testimony about how often he witnesses funerals, he said about 1-2 times a month, sometimes 5. Funeral services result in traffic conflicts. On Sundays, the church adds a large number of cars to the neighborhood and creates parking issues.
- Mr. Legrotteria then stated that the school has had negotiations with the church as to the lease terms, hours of operation will not conflict, Mr. Legrotteria stated that his understanding that the school will operate 8-5 on weekdays, Monday-Friday, and that in his experience, the one funeral service he attended was held in the evening.
- Cmr. Molner- are there any times when there are parent events? Yes, graduation is the big one, but they usually hold that offsite. Other events, BTS night, Christmas

concert. They have arrangements with the Church to hold those events in the evening in the chapel. They have a lease; the intention is to make this their school's home for at least five years. It was difficult to find this space, they want to open on September 4, prior to the parking lot construction.

- Mr. Graviano- states that he doesn't see any feasible timeline for this to be in operation after labor day. Chair agrees. Mr. Graviano states that the Board is always sympathetic to the religious/educational community. Parking- how many spaces does the church require? Church has no parking spaces now, the provision of the additional spaces will help the church. But we need to know the extent of the parking variance being requested.

Ms. Durkin then called her next witness, site engineer Eric Van Essen, who provided his qualifications and was accepted as an expert in the field of site engineering. Mr. Van Essen testified that he has reviewed the report of the Board Engineer; Mr. Van Essen testified that his firm has been retained to prepare engineering plans, which have not been submitted to the Board. Drainage calculations will be submitted as a condition of approval. Chairman Zecchino stated that he does not recall the Zoning Board ever considering an application before the engineering plans have been submitted. Chair suggests that they will need to come back. When will the engineering plans be ready? Ms. Bolcato suggests that September 18 would be the first date that we could continue to; if approved, the resolution would not be adopted until October 9. Discussion of how much they would need to have done to open. Parking lot- would that need to be constructed? Discussion as to the site being able to open pending the parking lot construction. Ms. Durkin stated that the school does not require inspections beyond the local level. The fire official's email to Ms. Durkin, dated August 14, 2024, was marked as Exhibit A-1; Ms. Durkin's response to the Neglia report was marked as Exhibit A-2. Commissioner Sochon stated that he would like to hear testimony from the church operations.

Chairman Zecchino asked that the Applicant move on to the architect. Ms. Julie Shih testified that she is a Registered Architect, and provided her qualifications, which were accepted by the Board as an expert in the field of architecture. Ms. Shih testified that she prepared the plans submitted in support of the application. She described the existing use as a church, with several classrooms. Currently there are three classrooms per floor. Some of the spaces have partition walls, so there are a total of 9 classrooms. There are no proposed changes to the interior walls or interior of the building. New Hope School will be able to move their students into the existing building without having to expand the building. Addressing the reports of the Board's professionals, Ms. Shih testified that a fire suppression system will not be required as the Occupancy Load and Use are not changing. There will be no need to do anything other than paint. No proposed changes to the exterior of the structure. Regarding the pick-up/drop-off, Ms. Shih testified that the best location for this is where sited, at the corner of DeMott Avenue. They are proposing 8 new parking spaces, one ADA accessible. New landscaping. The area of the parking lot is a green space with some picnic tables; Ms. Shih testified that this is a good area for the parking lot.

Cmr. Molner- all the classrooms are in the church, not the residence? The parsonage is currently occupied by the church, the pastor lives there. The parking area will incorporate the existing driveway to the parsonage house.

In response to a question from Cmr. Eramo, Mr. Legrotteria testified regarding the interior layout; the basement of the church contains a large open room that will be used as a cafeteria for the school. There will be approximately 30 students in the middle school classrooms.

Commissioner Eramo asked about the legal occupancy of the proposed classrooms; Ms. Shih was not sure. Cmr. Eramo asked about the parking need; Mr. Legrotteria stated he believes it is 7 spaces based on their current staffing and shared cars/transportation by staff. He stated that in all reality, he does not envision them to need more than 3-4 spaces. He also stated that there are approximately 5-6 on-street parking spaces in the neighborhood that are typically open when he visits the site. Based on what they have observed this is a quieter church than others that were considered. Cmr. Eramo asked about the size of the trees; 24" caliper oak trees to be removed. Compliance with tree ordinance will be required.

Cmr. Foukas- asked about any other staff- janitorial? Kitchen? Mr. Legrotteria: no additional staff, they do not serve hot lunch. Janitorial services come 3x a week.

Cmr. Molner: how are you handling garbage? They bring it out to city hall themselves; Cmr. Molner stated that garbage should be stored in an enclosed area not visible from the street, and a garbage enclosure will be required as per City ordinance.

Cmr. Eramo: how will circulation for drop-off be done: Van Essen- drop off at 2nd.

Chair: recommends that a dumpster will be needed, plans from engineering will be required; application to be continued to September 18, no further notice.

There being no further business before the Board, Commissioner Foukas moved to adjourn. The motion was seconded by Commissioner Sochon, with the unanimous approval of all Board members present, the meeting was adjourned at 9:16 p.m.

Respectfully submitted,
JESSICA L. SWEET, ESQ.,
COUNSEL SECRETARY