

MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF CLIFTON
September 23, 2024
7:00 P.M. SPECIAL MEETING

COMMISSIONERS PRESENT:

AVARHAM EISENMAN (1A)
MAUREEN O'CONNOR
MICHAEL MOLNER
GEORGE FOUKAS
VICE CHAIRMAN SCORZIELLO
CHAIRMAN ZECCHINO

ALSO PRESENT:

Nicholas Graviano, P.P., Board Planner
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 Special Meeting was published in both the Bergen Record and Herald News on August 18, 2024. All notice requirements were satisfied. Chairman Zecchino announced the time, place, and form of notice as well as advising all persons present 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 HEARING

1. TFJ HAZEL LLC 252 Hazel St. & 237 West 3rd St.; Bl. 16.11, Lots 1 & 2; Zone: RB-2

Meryl Gonchar, Esq., Sills, Cummis & Gross, appeared on behalf of the applicant, provided an opening statement summarizing the proposed project, the subject property and the relief sought. The proposed project will involve the adaptive reuse of a portion of the existing building onsite and conversion to a charter school, to be operated by iLearn Schools, which currently operates Passaic Arts & Science High School. Ms. Gonchar advised that she would be recalling her engineer and architect to provide additional testimony regarding the revised plans, as well as presenting the testimony of the Professional Planner, who did not testify at the July 31, 2024 hearing.

Ms. Gonchar called her first witness, Matthew Zwingraf, PE, previously sworn. Mr. Zwingraf provided a brief overview of the subject property, testifying in reference to a colorized rendering of the proposed revised site plan prepared by the project architect, which was marked as Exhibit A-5 in evidence. Mr. Zwingraf testified that the modifications to the

plans involved changes to the site circulation and driveways; there are no changes to the proposed building area. Mr. Zwingraf testified that the site plan has been reconfigured to accommodate full bus circulation within the site; entrance will be now via West 4th Street, with circulation via a clockwise direction. The driveway from West 4th allows for ingress and egress, which will be an improvement over what was previously proposed.

A marked-up version of the revised site plan sheet 3 was marked as Exhibit A-6, depicting the bus parking lane in yellow, the parent drop-off lane in blue, and the second floor of the building in blue. The drop off lane for parents is 210 feet long, 8' wide; Bus egress will be via a left turn only to 7th and a left on to West 3rd; the site has been engineered to accommodate the bus turning radius. The parent drop-off lane is situated under the gymnasium overhang. Pickup and drop-off are overseen by school staff to ensure safety. Parking under the gym overhang will be limited to teachers/staff only, who arrive earlier than the parent drop-off. No student or visitor parking will be allowed under the gym overhang, which will prevent conflicts between the parents dropping off and any other vehicles during the morning and afternoon. The bus lane is outside of the parent drop-off lane. These modifications resulted in reduction in the proposed number of parking spaces, from 90 to 82, and four onsite bus parking spaces. The revisions to the site plan resulted in the preservation of 6 on street parking spaces on Seventh Avenue, which will be reserved for use by neighborhood residents only, no parking by students or staff will be permitted. Seventh Avenue will be widened by 2 feet to provide for 11-foot travel lanes, eliminating potential conflicts between cars and buses.

Mr. Zwingraf then described the proposed revisions to the landscaping plan, proposing additional landscaping along the Hazel Street frontage, along the proposed retaining wall extending up West Third Street; the wall will be a concrete block wall colored similar to the proposed building; similar for the proposed masonry trash enclosure. The landscaping will soften the appearance of the wall from the streetscape.

Mr. Zwingraf then addressed proposed stormwater management measures; right now, there is no stormwater management measures, so all drainage simply runs off the site (soil does not percolate). The proposed stormwater management improvements include pervious pavement in the parking lot areas and is consistent with the NJDEP technical manual for stormwater management structures. A subsurface detention system will be constructed beneath the athletic field, which will collect all runoff from the site. 2.9% reduction in overall building coverage will result from post-development conditions.

Mr. Zwingraf confirmed that the applicant is able to comply with all comments provided by the Board engineer and planner.

Cmr. Molner: During drop off/pick up will the southern parking area be available for parents to drive in and bypass the drop-off line? Mr. Zwingraf stated that they can put in signage to

discourage that, especially since it would require a complex K-turn to exit from the southern parking lot.

Cmr. Eisenman: how much space is there to provide additional landscaping along the hazel St. frontage? Mr. Zwingraf: currently the sidewalk does run up to the building, but under proposed conditions, there will be 3-4' buffer between the building and the sidewalk.

Mr. Kurus: Can you go over the fencing and securable perimeter in reference to DCA standards for school uses. Mr. Zwingraf: a 6' architectural style open fence will surround the perimeter of the site from the northwest corner of the building along Seventh, to continue along the southern parking lot, behind the athletic field along the GSP frontage there will be an 8' fence as required by NJTA/GSP entrance. Mr. Kurus: how will they control movements into the site so that only known vehicles are able to enter; meeting the DCA requirements will provide for spillover to effects on the site circulation and surrounding neighborhood streets. Mr. Kurus raised questions about the potential safety impacts of vehicles entering/parking beneath the building.

Cmr. Eisenman: asks about fence details to adjacent residential properties- does that need to be solid fencing? Mr. Graviano – the open fence they are proposing is sufficient.

Interested Parties:

Glen Bedford, 23 Lewis Dr. previously sworn: Concern about the retaining wall, 5' high; will that block the view of cars turning. Bedford suggests that the sidewalk along Hazel St. is narrower than they think. Mr. Zwingraf stated that the wall will not block the view of those making left turns onto Hazel St.

Mr. Graviano asks for a sample of the wall materials in the event of approval; Applicant agrees.

Ms. Gonchar then recalls architect Nasir Almkhtar, RA. Mr. Almkhtar testified regarding the modifications to the exterior features of the building, testifying regarding the revised plans dated September 6, 2024. Mr. Almkhtar testified that they revised the plans in response to comments provided by the Board members at the prior hearing. Mr. Almkhtar testified regarding the September 2024 rendering package submitted with the revised plans. Sheet 1 shows the proposed building view from West 3rd St., the red accent squares are to provide a visual impact identifying the building as a school. Mr. Almkhtar testified that they applicant will comply with the recommendation of the Graviano report to minimize the red square detail along Hazel Street, will reduce by 50%.

They are proposing 5 signs; they can comply with the recommendation that the signs be backlit as opposed to the proposed interior illumination. Security fence will be gray or black, applicant agrees. Canopy will be gray, in response to planner's comments. Three of the signs

are the school logo, small one by main entrance; larger one on main structure; one facing West 3rd Street; one on 7th Avenue. Proposed signs are shown on Sheet A-110.

Chairman- could you make the building fit on this site while still meeting the conditional use standards? Architect: this is what the school requires to make the school function properly, they are very experienced operators. From my talks with them, this is the minimum square footage that they need to make the school function. Architect: they gave us the requirements and we design it to make it fit. Ms. Gonchar- we are seeking variances from these conditions, if we met the standards we would not be before this board. Mr. Graviano- is the building size based upon any applicable exterior criteria- funding or state requirements? Mr. Almukhtar stated that there is no specific requirement, but we are based on applicable requirements regarding minimum classroom sizes.

No interested parties had questions for the architect.

Ms. Gonchar calls her professional planner, Gordon Gemma, PP, who was sworn in by Ms. Sweet and provided his qualifications to the Board, which were accepted by the Board as an expert in the field of professional planning. Mr. Gemma testified that he has reviewed the transcript of the July 31, 2024 meeting, and also reviewed the application, plans, board's professional review letter, the ordinance, the master plan. Mr. Gemma testified that the ordinance provides a number of items to be considered in conjunction with a conditional use, including negative and positive impacts created by the proposed use, the traffic and circulation impacts, etc. Master plan was done in 2003, reexamined in 2008-2009. Page 42, goal 6- the Master plan is to encourage the reuse and rehabilitation of older nonresidential structures- this is interesting, not seen often in Master Plans. In context, we can then look at the variance. The big variance is the D3 conditional use variance. The three things that are not complied with- coverage, height, front, and rear setbacks—other than that, we meet the requirements. Responding to the Chair's question- could you meet all requirements of the ordinance and still have a functional school- Mr. G says no- they couldn't reuse the building; you can't meet the requirements and still keep the building. The lot is odd-shaped, has three frontages.

Relief for a conditional use variance- can you reasonably accommodate the positive and negative criteria despite the deviations. The site provides a buffer to residential properties, trying to make a visual improvement over what exists. Provides additional parking over what is required. Building is of a similar size and scale as to what is there now, coverage will be slightly less than existing. Building has been there since 1860; they are trying to reuse it.

Negative criteria- no substantial adverse impacts to neighboring properties; can you reconcile the proposed variances with the intent and purpose of the zone ordinance.

Conditions that are not being met having nothing to do with parking and site circulation. The height exists; in terms of the negative impacts of not meeting the specific criteria, this will

not have more of a negative impact than what is already there. Must take into consideration the site's proximity to the Garden State Parkway.

Under the D6 criteria—can the site accommodate the increased height? Yes the site has already demonstrated that it can because it has accommodated the height for many years. Ms. G- what about the increase in the mass of the building- does that impact your assessment? No- the height is what it is.

Under the D3 criteria- are there characteristics of the site that make it difficult to meet standards- unique site with 3-4 frontages. There are a number of the requirements that we do meet- the amount of parking is met, the lot size, depth, width are all met. Stormwater management will improve conditions.

C variances:

- Parking spaces in the front yard setback, not permitted.
 - o Property has 4 front yards, limiting the location of parking quite severely.
- Parking aisles shall not be located within 10' of front and rear lot lines, or within 5 feet of any side lot line.
- Parking or standing in a front or side yard:
- Parking area landscaping- no landscaping provided in the internal parking lot.
- Bus parking not permitted in a front yard.
 - o These are C variances, apply to the R-B2 zone for residential uses.
- Fence height- the Parkway fence needs to be 7'; athletic field fence needs to be 10', for security reasons they are requesting a perimeter fence of 6' in the front yard.
- Signage- requirement is one 9 sf nameplate sign; they are asking for 119.66 SF of building mounted signs due to unique frontage conditions affecting this lot.

Mr. Gemma- Inherently beneficial use, advancing the purposes of zoning, most of these C variances are being triggered by the unique frontage conditions and shape of the lot. Building exists, they are trying to preserve it. Safety concerns outweigh the fence heights. Compliance with DCA safety requirements is a better planning alternative than the compliance with the fence height requirements. Advances purposes of zoning under C2 criteria to have the taller fences, similar with signs. Prohibitions to what types of vehicles can park in which yards are specific to the residential uses but should be loosened for the proposed school use.

Given the objectives and goals set forth in the Master Plan, there is a benefit that they recognize to preserving non-residential buildings; Mr. Gemma stated that this meets the four corners of the intent of the Master Plan recommendations. The landscaping ameliorates the impacts of the location of the existing building. Conditions that could be imposed to ameliorate any negative impacts of the height and additional coverage, applicant has already done that, and we don't see any negative impacts.

Chair- asks for the impacts to extending the 45.7' height of the small portion of the building – Mr. Gemma says that there will be no negative impacts, inherently beneficial use. Chair-

couldn't you knock down this building and make a conforming school. Mr. G- not without removing the building. You probably cannot take the lot coverage down to 20% and make a functional school. Chair- if you knock the building down, as previously permitted in Clifton, couldn't you make a conforming use? Ms. Gonchar- the current use is nonconforming industrial use; this is an inherently beneficial use that is permitted. Mr. Gemma- this would make the site more conforming- and a benefit from a zoning perspective to bring the site into greater conformity.

Commissioner Foukas- we have seen three previous applications that involve removing the building, this is the only time we've seen an application seeking to keep the building.

Mr. Kurus- the testimony was that if the structural analysis requires knocking down the building, how is that impacted? If the proposed building cannot be saved, then the applicant would have to come back to the Board.

Ed Welch, West 2nd Street- Chairman questioned about building height and lot coverage; why can't you make it smaller and come into compliance with the conditional use standards? Mr. Gemma- the building exists, the lot coverage is being reduced. Mr. Gemma- the lot coverage requirement is 20%; we are proposing 35.3%- you may not be able to make a functional building at 20% lot coverage on this site; Mr. Welch- so maybe you aren't in the right spot! Mr. Gemma- if the applicant were not trying to make the stormwater improvements, then maybe it would be different. Reasons to put the building here- save existing building, making this school fit using the existing site. The applicant is the purchaser under contract. Mr. Welch says he does not believe this is an appropriate site for the proposed use.

Glenn Bedford, 23 Lewis Drive- Can you address occupancy? Does the school have to be this big? You can fit a lot more than 400 students in 29 classrooms. What is the elevation of the gymnasium? No loading dock.

Direct testimony concluded. Ms. Gonchar recalls the architect to address Mr. Bedford's questions. Chair asks the architect- if you made the building smaller, could it work for this operator's needs. Mr. Almukhtar: based on their needs, no. Mr. Bedford- what is the elevation of the gymnasium? They are asking a variance for the height- they need a variance, not building any higher than existing conditions. Height of gymnasium is 45.7', which is a new structure/addition to the existing building. Regarding loading/deliveries- page 62 of the transcript, the testimony at the prior hearing was SE-30 turning vehicles could be accommodated throughout the site.

Ms. Gonchar recalls the school operator, Dr. Guvercin, to respond to questions- the school's primary mission is to provide an ideal learning environment to students, which is why they are currently struggling with this site, asking the architect not to sacrifice learning environments. They are seeking to build as large a space as possible for their students, since this makes the learning environment better. 55,000 SF proposed. This is for high school students, they need more classrooms, more space to offer more classroom offerings.

Ms. Gonchar- how will an employee know which cars are permitted in the school? Mr. Guvercin- there is no way to identify who is driving what cars. There will be a staff person overseeing drop off.

Chairman- agrees that this does come with a cost to the neighborhood. Addition to existing 3-story height of building. Mr. Guvercin- want to make this school an ideal learning environment, and the variance relief is requested so the students do not bear that cost. Chair- why wouldn't you just tear down the building and build a new conforming building? Guvercin- we think this structure has components that lend themselves to an ideal learning environment. We put our best efforts and financial resources towards making this design.

VC Scorziello- we appreciate that you have invested all of this money, but have you considered the costs to the quality of life that will impact this neighborhood. We are struggling with the size of what's on here. Can you share your thinking about the quality-of-life costs to the neighborhood? Mr. Guvercin- the feedback we received at the last meeting was very helpful and the site circulation was improved in response to those comments. The site is like a junkyard; this will be a significant improvement. Schools add value to communities. VC agrees that there's no doubt that this use is inherently beneficial, but the prior plan we reviewed was not that good. We are convinced of your commitment to education. But we need to figure out the site plan, and we don't feel that the concerns of the neighborhood have been addressed.

Ms. Gonchar- we don't think there's anything in the testimony to substantiate that there will be negative impacts. This is not an inappropriate site; the City has said it is appropriate, but we need to demonstrate that we are addressing the problems associated with the conditional use.

Graviano- the proposed use is quite intensive; can you do a better job explaining why you need this space? Chair- maybe this is just too small a site for the extensive building that you require. The gymnasium is a critical aspect of the plan. More space is required for high school education.

Commissioner Eisenman- iLearn Schools has other sites throughout the area- are there any that you have constructed that are similar to this, where you are taking a commercial use and converted it to a school? Guvercin- there's one in Paterson, Grand Street.

Mr. Kurus- Any other schools in NJ where there's parking under the gym. Guvercin- parking under the gym in Paterson. Kurus- are you aware of the DCA requirements re: protection of access; he is concerned about safety. Guvercin- right now we have parking under a gym in Paterson, 10,000 SF, very similar to this, without any problems. DCA best practices for schools under construction. Access to parking beneath school buildings shall be secured. Mr. Guvercin states that Charter Schools are not subject to DCA review.

Interested Parties:

Nusullah Kilic, 100 W. 4th St., Clifton: Are there any schools that you operate that have higher than statewide average test scores? Ms. Gonchar objects. Mr. Kilic- do you believe that reusing this 100-year-old building is going to be good for the students? Do you believe that your school provides better quality education. Mr. Kilic testifies that he looked at other iLearn Schools and

they do not have any schools that are performing above the statewide average. Ms. Gonchar objects. Testimony was that the impacts of traffic will not substantially impact the neighborhood.

Ms. Gonchar wants the objectors to make their statements, and she will reserve her rights to respond. Chair states that any objectors will be permitted to speak again prior to the vote.

A five-minute recess is taken from 9:25-9:30 pm.

At the conclusion of the recess, closing statements/comments are taken from members of the public:

Nusullah Kilic: Is a school needed in Clifton? Yes, but is a charter school needed? No, do we need iLearn to run this school? No. This is a busy street, this will increase traffic in this quiet residential area; the traffic impacts will be very noticeable, despite their claims. Addressing the applicant's dedication to education, Mr. Kilic testifies that this operator is not above average, they may have examples of schools in Paterson, but Paterson may be more permissive with their variances. To reiterate what the Board members said, they are ready for the cost of providing education to their students, but repurposing this old commercial building for educational purposes is not consistent with the stated mission of excellence in education. Their organization is a different story- I know them from my home country, they are very controversial, very profit-driven. They are in this for a profit. Their education is not above average. Teachers are underpaid, I have personal friends who have worked there. This organization for Clifton is not a good idea; this residential area is not designed for an educational building.

Maggie Gaudet, 28 Bergen Avenue: She is a proud parent of a student at iLearn Schools. There can never be more than 400 students in our high school when we are at capacity; the Charter Law only allows us to grow one year at a time. Currently their high school has 100 9th graders. There will never be more than 400 students in the building. Within the first 3 days of student going to school, the security guard will know everyone and what car they drive. The high school campus is housed at St. Brendan's. Relating to the scores, my daughter was not getting a quality education at her local district school but now she is at iLearn, she's now one of the top students in her school.

Glenn Bedford, 23 Louis Dr., Clifton: A school is a good idea as long as it fits the neighborhood; School 4 is only a few blocks away. This neighborhood cannot support another school. The traffic engineer's testimony was not accurate- the traffic in this area is already bad. The parents will let the kids off in various areas. It is too busy an area with the other school in close proximity. The building will be very difficult to bring up to code; it will be a nightmare of delays. There's a lot more that needs to be looked into – the building may be contaminated with asbestos in the concrete. It must be considered what can be done; he raises concerns about construction commencing and then stopping due to issues.

Connie Restitch (phonetic): like the other woman said about the NJSLA testing, her daughter also scored high, her daughter formerly went to Woodrow Wilson and was bullied, teachers did nothing. She was on a waiting list for the charter school, this is now her 3rd year, she has no complaints. Her teachers are caring, they are attentive. I understand that this is a big school, but

these are our children who need another school in Clifton. She has 2 adult children who went to Clifton schools, those were terrible experiences. The charter school will be much better. There will be traffic, but it is only 15 minutes in the morning and 15 minutes in the afternoon; the impact will be minimal. Give the children a school to improve their educational situation. This school will be in close proximity to a new apartment complex, students can walk to school. She is a true believer in the benefits of iLearn Schools.

Melania Massa, a parent who transitioned out from Catholic schools to Charter Schools, she is honored to be part of the Charter School community; she applied, and her child was selected. They should have a say in where their kids go to school. She's the mother of an autistic 8-year-old who was in Charter School. Refused to send her older son to Clifton High School due to overcrowding. The education is great, she loves the teachers. Her son graduated from the Passaic Charter School in 2021, he made friends, teachers had an impressive impact on his life. Other experiences with public school have been negative. Traffic- will only be bad during two short periods a day, maybe 30 minutes in the morning and afternoon. iLearn provides good after school programming. No buildings or afterschool programs for special needs kids, which iLearn will provide. Public schools are very overwhelming and overcrowded.

Chairman Zecchino stated that the Board is looking at the application, and not passing judgment on the school operations or student outcomes. While it may be a good learning environment for children, the Board has to look at what they are doing with that piece of property. The application will be carried to the regular meeting of October 9, 2024 for closing statement by the applicant and any rebuttal by the interested parties.

There being no further business before the Board, Commissioner Foukas moved to adjourn. The motion was seconded by Commissioner Eisenman, with the unanimous approval of all Board members present, the meeting was adjourned at 10:00 p.m.:

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