**<u>MINUTES</u>**
**ZONING BOARD OF ADJUSTMENT**
**CITY OF CLIFTON**
**January 8, 2025**
**7:00 P.M. REGULAR MEETING**

**COMMISSIONERS PRESENT:**
NOEL PEREZ (2A)
GRACE ROBOL (1A)
AVRAHAM EISENMAN
DAVID BRAID
ALESSIA ERAMO
MAUREEN O'CONNOR
GEORGE FOUKAS
VICE CHAIRMAN MOLNER
CHAIRMAN ZECCHINO

**ALSO PRESENT:**
Nicholas Graviano, P.P., Board Planner
Anthony Kurus, P.E., Board Engineer
Liana Bolcato, Asst. Zoning Officer
Joseph M. Wenzel, 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 the Board's 2025 regular meeting schedule was published in the Herald News on December 11, 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.

## <u>CONTINUED HEARINGS</u>

**1. AMER ABUROMI, 67 Rutgers Place, Block 27.10, Lot 68, Zone R-A2**

The applicant is requesting to expand the existing curb cut to 19 feet wide where 12 feet wide is required to accommodate a pre-existing non-conforming driveway.

Amer Aburomi appeared *pro se* and testified that he is the owner of the house and is requesting variance relief to widen his existing driveway curb cut from 13 feet to 19 feet. The driveway is 19 feet wide so the enlarged curb cut will align with the driveway. Vice-Chair Molner questioned whether the expanded curb cut would result in the loss of parking spaces in front of the neighboring property. Aburomi indicated that the parking space would be unaffected because there is no parking currently in front of his driveway. The Board finding that there is no substantial detriment to the neighborhood by widening the curb cut; Commissioner O'Connor made a motion to approve; Commissioner Eisenman seconded the motion; voting in favor are Commissioners

Eisenman, Braid, Eramo, O'Connor, Foukas, Vice Chair Molner, and Chairman Zecchino. The motion passes 7-0 and the application is approved.

2. **GEELAND, LLC 811-813 Rt 46, Block 34.03, Lots 75 and 77 – R-A2**
**Continued from 2/7/24 (all eligible except Eisenman, Robol and Perez); 5/1/24 (all eligible except Braid, Robol and Perez); 6/19/24 (all eligible except Robol and Perez) and 7/17/24 (all eligible except Eisenman, Robol and Perez)**

Attorney Michael Sullivan entered his appearance on the record, and identified the property which is the subject of the application, and relief sought. Mr. Sullivan also summarized the prior testimony. Attorney Sullivan explained that the Applicant continues to seek preliminary and final site plan approval with use variance and various bulk variances for the construction of a new self-storage facility. Attorney Sullivan advised that since the last meeting there has been significant change to the plans. First, the building height has been reduced from 3 stories and 39.8 feet in height to 2 stories at 24.1 feet in height. This eliminates a d(4) variance for height. Attorney Sullivan also noted that the drive aisle has been redesigned to allow circulation around the entire facility. This was based on comments from the Fire Department. There will now be 23 parking spaces on site. Attorney Sullivan indicated that the City's commentary and thereto should be marked as A-12 and A-13. Attorney Sullivan concluded that the parking variance remains as there is no identifiable standards for self-storage facilities in the City Zoning Code.

**Marc G. Walker, P.E.**, Dykstra Walker Design Group, 21 Bowling Green Parkway, Ste 204, Lake Hopatcong, NJ, whose credentials to testify as to the civil engineering plans were accepted, was sworn in by Board Counsel. Walker indicated that his testimony would be supported by two exhibits, colored rendering of the revised site plan (A-14) and elevation comparison between prior plan and revised plan (A-15). Walker stated that the new plans eliminated a story above ground which new comports with the zoning standard for building height, all bulk setbacks are in compliance, building coverage is less than maximum allowed, the dead end and emergency access location have been eliminated, the road loops completely around the building and this resulted in 5 additional spaces.

Walker noted that the parking on site should be sufficient for the needs of the facility. The loading ramp is now located on the opposite side of the building from the neighboring farm. The landscaping is largely the same except for two detention basins for stormwater control. Walker found that the basins are of proper size and location to reduce rainfall runoff from affecting adjacent properties. Walker turned to the building height and noted that due to the redesign of the structure, the building is 20 feet lower than prior submission, the gross floor area is 14,000 square feet, and the visual mass is reduced by 44%. In essence, more of the building is underground.

Walker advised that the variance for the placement of a sign along the highway at 2 feet, as opposed to 30 foot standard, is need for drivers on Route 46 to notice it. Free standing and wall signs are likewise required to allow for patrons to know where the facility is located and its entrance. Walker continued that the parking spaces on site at 23 are less than the 60 which would be required of warehouse storage under the City Code. Walker noted that the users of a self-storage facility are significantly less so that the 23 spaces, albeit below the 60 requirement, are more than needed for this type of site. Additionally, a variance must be requested to allow parking in the front of the front of the facility to accommodate patrons entering the office area. There are also fewer loading spaces (2) provided because of the limited area available and that more loading areas would be impractical for this use. Walker concluded by noted that self-storage facilities are not a permitted use in the district which continues to require the applicant to seek a d(1) variance.

Commissioner Eisenman asked about the number of stories. Walker noted that the number of floors of storage remains as 3 with one completely underground. Walker added that the basement as shown on current plans was not part of the prior plans where all storage floors were above ground.

Commissioner Eramo inquired about the actual footprint of the building. Walker advised it was the same. Commissioner Eramo also wondered about the trees toward the rear of the property. Walker responded that the landscaping remained the same and consistent with City tree removal ordinance.

Vice-Chair Molnar asked whether gates would be placed around the facility now that the full loop aisle is being used. Walker stated that gates would have to be installed to prevent patrons from accessing the site without permission and to prevent parties from cutting through parking area.

Commissioner Eisenman asked whether the new drive aisles would eliminate turnaround points and Walker agreed that those were eliminated. Commissioner Eisenman also asked about impervious coverage, and Walker advised that there is slightly more impervious coverage to allow for the full loop around the building.

Board Engineer Kurus added that while there was some increase in impervious coverage for the drive aisle loop, the plans accounted for it by increasing the plantings and detention basins to ameliorate stormwater runoff.

Commissioner Eramo expressed concern that the detention basins would contain less runoff than would be generated by the structure and parking area. Walker responded that the current runoff simply sheets down to a drainage easement without any control. Walker noted that the presence of the basins serves to slow down the runoff and the remainder of the stormwater will disperse on site as usual. Walker also supported that the 18” depth for the detention basin was appropriate for this amount of projected rainfall using the most recent data available. Walker further stated that the basin would be inspected four times a year and anytime there is more than 1” of rain. Any issues with the basin will be addressed at those times. Walker also advised that the planned vegetation in the basin area will reduce particulate matter. Walker added that the owner of the site will be remain liable for the basin maintenance and reporting to the City Engineer as to its status on a regular basis.

The floor was then opened to interest parties to ask questions of the witness.

**Vera Lazar, 22 Spencer Ave.** – Having been previously sworn in, Lazar inquired about the setbacks for the new plan. Walker advised that the building in prior iterations was already moved back, and this new plan maintains the last offered setbacks. On questioning about plantings, Walker noted that the landscaping plan anticipates the use of native plants. When questioned about the actual impervious surface increase, Walker stated that he could not state for certain the percentage but that it had increased. Also on questioning as to stormwater calculations, Walker noted that all calculations were based on the latest available data and set at the latest standards required by the NJDEP.

**Carl Haefels, 409 Colfax Ave.** - Having been previously sworn in, Haefels asked about the visual impact of the new building. Walker advised that the architectural renderings which will be offered by another witness would answer that question better. Haefels expressed concern about the sight of the building from the farm.

**Ann Schnakenberg, 268 Washington Ave.** – Having been previously sworn in, Schnakenberg asked Walker to go over the changes again as she was unable to see the plans. Schnakenberg asked above how this new very large building is being built when it is not permitted. Board Planner Graviano explained that as the use is not allowed in the zone, the applicant must explain why it is proposing the use and that is part of the application. Schnakenberg asked whether more soil is being removed from the site and Walker answered that the amount remained the same as the footings for both plans required it. Schnakenberg asked about the detention basin removal, and Walker responded that there is usually a deed restriction to prevent that. Schnakenberg expressed concerns about the larger driveway causing more runoff. Walker noted that all stormwater runoff is considered and calculated as part of the application in the detention basins. Walker added that the standard is a 2100 year requirement and that any overflow would end up in the drainage ditch on the side of the property not effecting nearby homes. Schnakenberg asked about the County's review, Walker responded that the application to the County is pending. Schnakenberg lastly asked about odor control and Walker advised that would be subject to City Municipal Code standards.

**Doris Pharo, 465 Colfax Avenue** – Sworn in, Pharo asked about the effect of heavy rainfalls on the detention basin. Walker noted that the landscaping and trees in the area will hold the soil to prevent damage to nearby homes. Walker specified that all runoff is intended to be directed into the detention basin to prevent damage to neighboring properties. Pharo also asked about tree coverage of the building, Walker noted that the architect will be able to respond to that.

**Matthew O'Donnell, 75 Karen Drive** – Having been previously sworn in, O'Donnell asked whether single family homes, which are permitted in the district, would have less roof area for stormwater collection. Walker noted that the project is properly engineered to reduce the potential for stormwater damage and channel rainwater. The impervious roof and parking lot are in line with engineering standards.

**Doris Rascher, 678 Broad St.**– Having been previously sworn in, Rascher indicated that the planned building will be 3.5 feet higher than the current grade in the area. Walker indicated that there will be have be a lot of regrading around the site. This will require some fill to be brought onto the site. Rascher expressed concern about the building being up on a hill above her home and its visual impact. Rascher asked about lighting. Walker stated that the lights will remain as in early testimony and they will all be downward facing.

**Cynthia Hadjiyannis, Esq., attorney representing City Green**– Hadjiyannis asked about the effect of overflow onto farm next door, Walker indicated that will be controlled by the detention basins. Walker reiterated that the basins will be under the control and responsibility of the owner of the site. If the basin is not maintained the City can force the owner to maintain it by issuing violations and fines. The construction site will be addressed by a soil erosion program. Old growth trees will be largely maintained and replaced, if necessary, by native plants. Walker also reiterated that the topography of the site will be changed from construction phase to completion.

**Roy Ceccato, 678 Broad St.** – Sticco also wondered about the drainage and what happens when it fails. Walker noted that he used the most current engineering standards to develop the basins and that there are checks in place to reduce failure. Water cannot be controlled so all applicant can do is the best under the circumstances.

**Dave Wyka, 101 Van Breeman Dr.** – Wyka asked about types of trees being planted and whether a licensed tree expert is being used. Walker noted that the landscaping plans were drawn up in accordance with City Code.

This application will be continued to January 22, 2025, no further notice will be given.

**3. BMJR Realty, LLC, 423 Lakeview Avenue, Block 1.16, Lot 1, Zone BC**
**Continued from 11/6/24**

Applicant's attorney Dominic Iannarella, Esq., advised that the applicant has revised his plans to present to the board. The prior request of apartments with a retail store on the first floor are being replaced with new plan for 5 apartments with a fitness center for tenants on the first floor. Parking will remain underneath the building.

Applicant's engineer, **David Fantina, PE**, was called and having been previously qualified to testify in the field of civil engineering was sworn in again. Fantina identified the existing site conditions and that buildings on site would be demolished. Fantina noted that lot coverage would be at 92%. He added that is not a big difference because the site is already completely covered by asphalt. Fantina added that there would be a 10 foot setback to the east along the Garden State Parkway side. Fantina advised that the lower floor would now only consist of a tenant fitness center, lobby, and parking area. There are 11 spaces on site which meets the standard. Fantina also noted that the a drywell will be installed in the parking area to control stormwater before flowing into municipal stormwater system.

Chairman Zecchino asked whether the roof leaders would be flowing onto Lakeview Avenue. Fantina noted that the leaders would be controlled but otherwise flow as usual. Vice Chair Molnar expressed concern about the line of sight of vehicles coming out of the site. It was unclear if this was measured and what standard would be applied. Commissioner Foukas expressed concern about the building being on the property line and whether applicant would consider cutting off an angle of the building toward Lakeview to allow better sight. Commissioner Eramo questioned the current use. Fantina noted that it was 3 apartments with a commercial space and a separate garage, with no parking striping. Eramo wondered if the use was too intense. Board Planner Graviano inserted that all of these plans are subject to the County Planning Board which could set a different standard for sight line from the parking area.

The floor was then opened for all interested parties.

**Charles Pelech** – Pelech expressed concern about the parking in the area and doesn't want this more intense use result in the loss of on-street parking.

**Marie Decker** – Decker asked about parking on site. Fantina noted that all parking will be on-site under building. Decker wondered where other cars will be parked and effect parking on street. X asked about stormwater control. Fantina noted that stormwater control is encompassed by the drywell.

Applicant then called **Alex Dougherty, Professional Planner**. Doughtery was sworn in by the Board Counsel. Doughtery's qualifications as a planner were accepted by the Board. Doughtery indicated that he prepared the planner report. He gave an outline of the area's conditions and its location. Doughtery noted that the property abuts the Garden State Parkway and Lakeview Avenue, two major thoroughfares in the City. The current conditions of mixed residential-commercial is not uncommon in the area. The proposed use of multi-family residential while not permitted in the district is not uncommon with neighboring uses. Site access will remain the same from East Fourth Street. The general quality of housing in the area is older and this will be a welcome addition. Doughtery argues that the proposed residential use is less impactful then the allowed use of mixed residential-commercial. Addressing the d(1) variance special conditions, Doughtery averred that the proposed building is modern better built option than most of the other stock in the area, commercial use would be more intense and that muti-family residential should be preferred. Doughtery also noted that the housing addresses needs in the area as 1 and 2 bedroom units are highly sought after. The fitness center also adds to the positive impact of this project. Doughtery continued that the better appearance and improvement to the current site conditions served to meet the MLUL planning goals under 40:55D-2(a), (c), (g), (i) and (m). Stormwater control is improved and parking is provided on site to minimize impact for on-street parking. Doughtery addressed that the project does not impair the zone. The area is already filled with residential uses, so the prohibition has limit practical effect. Additionally, the Master Plan Re-Examination noted many of the goals that are achieved by this project. Doughtery downplayed the effect of lot coverage in that the current site is fully covered with asphalt. Doughtery added that the setbacks are appropriate to achieve the stated goals of off-street parking. Doughtery added that all of this remains to be reviewed by the County of Passaic. Doughtery said that the variance to the rear of the property is appropriate because it abuts the Garden State Parkway without any negative impact to neighboring properties. The current garage which sits along the property line will be removed in favor a more modern parking structure. Doughtery averred that the project meets the positive and negative criteria to grant a use variance and the associated bulk variances.

Chaiman Zecchino questioned the size of the lot and the amount of lot coverage. Board Planner Graviano noted that the district does not have a standard maximum lot coverage. Chairman expressed concerns about the size of the building and number of units. Graviano added that similar multi-family districts would only allow 3 units where this applicant is seeking 5 units. Chairman Zecchino asked if the building could be smaller so that it was not on the property line as currently proposed. Attorney Iannarella responded that many structures along Lakeview have no setback like the proposed project. This is now the third iteration of the project and the applicant has pulled the building back from the neighboring property on West Fourth Street to improve site conditions.

Vice-Chair Molnar asked about the awning line of the building and that it exists over the property line into the City or County's right-of-way. This will have to be reviewed by the County and determined if allowed. Board Planner Graviano agreed with the planning proofs placed on the record by Dougherty. However, the façade and awning would have to be moved back from the right of way. Also, Graviano asked that screening of parking from street view be added. Attorney Iannarella asked that as condition of approval that the awnings would be removed from the right of way in final plan submission in resolution compliance.

Commissioner Eramo asked if 60% building coverage is normal for the area and wondered if a smaller building would be more appropriate for the impact to the area. Doughtery responded that that is a proper re-use of the site. The larger roof area is preferable to a large asphalt area because stormwater is better channeled and controlled. Attorney Iannarella added that the area is replete with similar type buildings.

The floor was then opened to interested parties.

**Marie Decker** – Having been sworn in by Board Counsel, Decker asked about the use of the term dilapidated and intensity of the use. Doughtery noted that the current site is dilapidated not the area in general. Also the residential use is less intense than any commercial use.

Chairman Zecchino continued to inquire whether a line of sight was an issue with this application and its effect.

Attorney Iannerella indicated that he would review the awning issue and the line of sight and seek to return to the board on February 19, 2025.

Chairman Zecchino noted that the matter would be carried to February 19, 2025 and that no notice was needed.

## NEW HEARINGS

### 4. Spark Car Wash, LLC, 25 Allwood Road, Block 82.01, Lot 18.02, Zone R-B1

Attorney John Wyciskala introduced the project as a new car wash on a parcel that is currently a large parking lot. The applicant is the contract purchaser for the site. Attorney Wyciskala gave an overview of the project and its intended as a self-serve carwash with specialty detailing. Attorney Wyciskala noted that car washes are not a permitted use in the zone.

Wyciskala called **Matthew Canale** to testify. Canale was sworn in by Board Counsel. Canale identified himself as director of real estate for Spark Car Wash. He described it as a hi-tech car wash system where car wash is automatic and the vacuuming and detailing of the vehicle afterward is conducted by the driver in a designated space. They will employ a membership system for its intended users. The opening hours will be 8AM to 8PM. There will no more than 3-4 employees on site at any one time. Trash pick up will occur once weekly. Cleaning materials will be delivered monthly by box truck. The car wash will recycle up to 75% of the water in the wash cycle. There will be no hazardous chemicals on site.

Chairman Zecchino inquired about the actual processing of cars. Canale responded that it is all automated. The vacuum area is self-serve and is a separate parking area. The employees on site do no manual labor of any type, they are there to ensure all the mechanisms are working correctly and respond to customer concerns.

Commissioner Perez expressed concerns about traffic build up. Canale ensured that this is a highly efficient car wash that can move along vehicles at a reasonable speed to avoid back-ups. Stacking at similar sites will not occur here because there is more room on site.

Commissioner Eisenman questioned the hours being between 8AM and 8PM. Vice-Chair Molnar asked about retail sales and the largest vehicle that the wash can accommodate. Canale noted that there will be no retail sale items available and that very large pick-ups and trucks can be handle but could not allow double axle vehicles due to their width.

The floor was then opened to interested parties.

**Evgeni Goriounov** – After being sworn in by Board Counsel, Goriounov asked about the speed for the car washes and the number of vehicles that can be washed per hour. Called gave general idea that the car wash can be as fast as 90 seconds, that it could handle up to 125 cars per hours, but that the expected amount is really around 400 cars per day at best. Canale noted the busy hours are usually between 1PM and 5PM.

Commissioner Eisenman asked if weekends were busy and Canale agreed with that estimate.

Due to the hour, Attorney Wyciskala indicated that present additional witnesses upon return to the board on February 5, 2025.

Chairman Zecchino noted that the matter would be carried to February 5, 2025 and that no notice was needed.

## <u>ADOPTION OF MEMORIALIZING RESOLUTIONS/MINUTES</u>

1. Resolution memorializing adoption of 2023 Annual Planning Report prepared by Nicholas Graviano, PP, AICP, JD of Graviano & Gillis, Architects & Planners LLC

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

2. Resolution memorializing adoption of 2024 Annual Planning Report prepared by Nicholas Graviano, PP, AICP, JD of Graviano & Gillis, Architects & Planners LLC

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

3. Resolution memorializing appointment of Joseph M. Wenzel, Esq., of the firm of Friend & Wenzel, LLC as Counsel Secretary to the Board for Calendar Year 2025

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

4. Resolution memorializing appointment of John D. Pogorelec, Esq. of the Law Offices of John D. Pogorelec, L.L.C., as Special Counsel for Litigation to the Board for Calendar Year 2025

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

5. Minutes of the December 18, 2024 Regular Meeting

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

There being no further business before the Board, Chairman Zecchino moved to adjourn. The motion was seconded by Vice-Chair Molnar, with the unanimous approval of all Board members present, the meeting was adjourned at 10:01 p.m.

Respectfully submitted,

JOSEPH M. WENZEL, ESQ.,
COUNSEL SECRETARY