MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF CLIFTON
April 2, 2025
7:00 P.M. REGULAR MEETING

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

COMMISSIONERS ABSENT:
ALESSIA ERAMO

ALSO PRESENT:
Nicholas Graviano, P.P., Board Planner
Liana Bolcato, Asst. Zoning Officer
Joseph M. Wenzel, Esq., Counsel/Secretary

Chairman Zecchino called the Meeting to Order at 7:03 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.

NEW HEARINGS

1. **Shimshon Klein,** 90 Rutherford Blvd., Bl.: 60.10, Lot: 19, Zone RA3

The applicant, **Shimshon Klein**, was called forward and sworn in. Applicant's attorney, Dominic Iannarella, Esq., provided an overview of the project and the client's desire to have the expansion to meet the needs of his growing family.

Applicant's architect, **Joseph Donato**, was called forward, sworn in and qualified as an expert in the field of architecture. Donato provided an overview of the current conditions noting that there are current pre-existing nonconformities. Donato outlined the proposed expansion to the residence. Donato concurred that the expansion was necessary because of the Applicant's growing family and the need for separate work from home space. Donato indicated that there is a set of stairs which will lead to the attic space. Donato stated that while there is no plumbing or sleeping space in the attic, it is intended for family recreational use. As a result, there is a height variance that will be requested as part of the application along with other bulk variances for rear yard setback and lot coverage.

Zoning Officer Bolcato noted that there is also a driveway variance that is needed because of the location of the proposed driveway.

Chairman Zecchino requested a list of all variances needed. Donato stated that the proposal requires a side yard setback which is pre-existing but extending further back due to the expansion, rear yard setback, lot coverage, height of roof/attic, and driveway variance.

Vice-Chair Molner asked why the height variance is needed and wondered if the Applicant can reduce the height of the attic to eliminate the variance. Counsel for Applicant advised that the reduction in attic could be done but those plans are not completed.

Chairman Zecchino added that the reduction to the height would be a positive to the application and that a set of pull-down stairs could replace the full flight of stairs.

Applicant requested to return on May 7, 2025 to present updated plans in line with the Board's comments.

Chairman Zecchino announced that the matter would be heard on May 7, 2025 and advised that there would be no need for notice by the Applicant.

2. **Fowzi Mustafa**, 70 Grant Ave., Bl.: 17.04, Lot: 97, Zone RA3

The applicant, **Fowzi Mustafa**, was called forward and sworn in.

Attorney, Dominic Iannarella, Esq., for the Applicant explained the nature of the project. He indicated that the driveway could be expanded to accommodate two (2) off-street parking spaces and agreed to provide amended plans as a <u>condition of approval</u>.

Applicant stated that the need to expand the home was to meet the needs of his family and was a less costly option than finding a new home.

Chairman Zecchino opened the floor to the public. No interested parties came forward.

Applicant closed and requested approval.

Commissioner Foukas moved to approve and stated that the variances requested are minor and do not raise any concerns. Commissioner O'Connor seconded the motion.

Commissioners Robol, Eisenman, Braid, O'Connor, Foukas, Vice Chair Molner, and Chairman Zecchino (who agreed that the variance request was de minimus) voted for approval. Motion passed 7-0.

3. **Daniel Norman,** 35 Laurel Ave., Bl. 50.11, Lot: 7, Zone RA2

The applicant, **Daniel Norman**, was called forward and sworn in.

Attorney, Dominic Iannarella, Esq., for the Applicant explained the nature of the project.

Applicant's architect, **Douglas Battersby**, was called forward, sworn in and qualified as an expert in the field of architecture. Battersby went over the current conditions and the proposed changes to the property. Battersby called out the removal of a current detached garage which violates the rear yard setback. Battersby clarified that the proposed structure would still require a rear yard setback variance but it was significantly less than the current garage presents. Battersby addressed the positioning of the AC condensers and identified that these are largely hidden due to a change in grade from the adjacent property as well as the presence of a retaining wall. Battersby also indicated that the lack of a buffer area adjacent to the driveway is a less intense variance request than what would be required if a compliant buffer were placed on site. The driveway would be smaller and would cause other variance conditions. Battersby stated that the footprint of the current home requires the layout chosen. Battersby also addressed the multiple separate rooms in the basement. He noted that Applicant wanted a separate gym area from the children play area to avoid accidents. Battersby opined that the visual aspect of the new home will fit in with the neighborhood as it is mostly the same size as others. Battersby continued with the floor plan and layout of home.

Chairman Zecchino asked about the driveway parking. Battersby advised that the plans will allow for two (2) cars to be stacked in the driveway.

Commissioner Eisenman asked about the driveway location. Battersby showed that the current driveway will remain but be repaved.

Chairman Zecchino asked if this is basically a whole new home on the footprint. Battersby agreed with that assessment. Chairman Zecchino also wondered why the basement area needed to be split up into separate rooms. Battersby shared that the walls would be removed and the basement would instead be one room as a <u>condition of approval</u>.

Zoning Officer Bolcato clarified that the location of the AC condensers still requires a variance because of proximity to lot line.

Applicant testified as to his need for more space as the number of bathrooms and other living space is very limited.

Chairman Zecchino opened the floor to the public. No interested parties came forward.

Applicant closed and requested approval.

Vice-Chair Molner expressed that this was good looking home which made proper use of the available land and moved to approve. Commissioner Robol seconded the motion.

Robol, Eisenman, Braid, O'Connor, Foukas, Vice Chair Molner, and Chairman Zecchino voted *for approval. Motion passed 7-0.*

4. **New Hope School,** 806 Clifton Ave., Bl. 35.04, Lot: 9, Zone(s) RB1, BC, & M1

Commissioner O'Connor recused herself from the dais before the matter was called.

The applicant's representative, **Robert Beebe**, was called forward and sworn in.

Attorney, Dominic Iannarella, Esq., for the Applicant explained the nature of the project. The variance request is for two uses on one lot.

Beebe shared the number of students enrolled in the school, the times of operation, and grade levels. Beebe noted that the school has been in the Boys and Girls Club building since September 2024. Beebe stated that there is no issue with parking or traffic as the parking lot is largely unused by the Club during the day and the School vacates before Club functions commence. Beebe has been very happy with the Club and both parties have benefited from the relationship. Beebe advised that there is no summer school offered. Pick-up and drop-off occur in the parking lot area and there is enough space so that vehicles are not backing up onto Colfax Avenue.

Chairman Zecchino asked if there was any cap on the number of students. Beebe said there was none and that he hoped to expand depending on the room being available in the Club building.

Chairman Zecchino opened the floor to the public.

Gabriel Blau, 180 Cabrini Blvd, NYC, came forward and was sworn in. Blau is the Executive Director of the Club. Blau stated that the School is a great partner and was happy to support their application. The shared facility is a major positive to the proper use of the building. The schedules are not in conflict and have worked in conjunction to ensure that parking is not overused.

Applicant closed and requested approval.

Board Planner Nicholas Graviano opined on the two uses for this one lot. He noted that the school use is considered inherently beneficial and that the application can be approved under the *Sica* test. He also noted that the building exists in two different zoning districts which have distinct requirements which makes the application unique. He believes this is an appropriate shared use of the building. He also stated that site plan waiver should be granted to the applicant as a <u>condition of approval</u>.

Commissioner Eisenman questioned why this application needs a variance for two uses on one lot when the uses are compatible. Board Planner Graviano stated that would only apply when the main use and secondary use are under the same ownership or control, for example, a house of worship and a daycare run by the same religious organization. As the Applicant and the Club are owned separately and governed by a lease, the two use requirement applies.

Commissioner Eisenman expressed that this situation works very well and it serves the needs of the children of Clifton, and he moved to approve. Vice-Chair Molner seconded the motion.

Commissioners Perez, Robol, Eisenman, Braid, Foukas, Vice Chair Molner, and Chairman Zecchino voted for approval. Motion passed 7-0.

5. **Alex Milich,** 263 Parker Ave., Bl. 4.11, Lot: 14, Zone PD-1

Attorney, Dominic Iannarella, Esq., for the Applicant explained the nature of the project. The current restaurant is seeking to expand by adding a second floor and moving existing apartments to the third floor.

Applicant's engineer, **Thomas Donohue**, was sworn in and qualified as an expert in the field of engineering. Donohue outlined that the current conditions and noted that the lot width is nonconforming. Donohue noted that the is a restaurant and two residential apartments above it. The plans would add a second floor for restaurant service and move the apartments to the third floor. Donohue noted that the original plans needed a height variance but have been amended to below the 33 foot standard at 32.9 feet.

Chairman Zecchino asked about the restaurant operations and the placement of the residential units.

Zoning Officer Bolcato advised that in this district the additional restaurant floor space created on the second floor would not require additional parking.

Vice-Chair Molner asked about the height of neighboring buildings. Donohue noted that there are other 3 story buildings in the area.

Board Planner Graviano corrected that the site is not deficient in lot width but instead lot depth.

Applicant's architect, **Michael Capo**, was sworn in and qualified as an expert in the field of architecture. Capo gave an overview of the floor layouts in the proposed renovated building. He identified that a new set of stairs would be installed for use of the second floor of the restaurant. Capo showed that the second floor would only be used for restaurant purposes. Capo then stated that the third floor would have two residential units, double bedroom and triple bedroom. These are the current sizes of the residential units. Capo stated that an exterior catwalk was added to his plans to be compliant with fire code but added that if the building is sprinklered the catwalk made be removed. Capo shared that is subject to fire safety review. Capo showed that the parapet was lowered to meet the height requirements.

Chairman Zecchino asked about the existing apartments to confirm the new ones are identical.

Commissioner Foukas asked if a lift was required for ADA compliance. Capo noted that was not a requirement under the circumstances but that the bathrooms are all ADA compliant.

Commissioner Perez asked about the need for a second egress point for fire safety. Capo shared that was not necessary because the new restaurant would be below capacity amount which would require the second exit.

Commissioner Eisenman asked about the total amount of seating on each level. Capo noted that the first floor has 50 seats and the second floor has 48 seats.

Applicant's planner, **William Martin**, was sworn in and qualified as an expert in the field of planning. Martin introduced Exhibit A-1 (two aerial photos of neighborhood area) to indicate the nature of the uses. Martin shared that this is an existing non-conforming use in the district and that the Applicant seeks to expand it. The zone allows restaurants but not mixed with residential. The zone is meant to be commercial and a throwback to late Victorian period styles. Martin shared that many buildings in the area are mixed-use and that several are 3 stories. Martin pointed to the Master Plan goals in support of the project: encourage balance of uses, rehabilitation of old housing stock, revitalization of old commercial uses, preserving cultural heritage, and enhance architectural aspects. Martin stated that d(1) variance for two uses on one lot is line with late Victorian models. Also, Martin pointed to the goals of planning under *N.J.S.A. 40:55D-2*, subsections (a), (e), (g) and (i). The bulk variances for lot depth can be granted as a hardship under c(1) as lot size is pre-existing. The remaining bulk variances can be granted under the flexible c(2) standard as a better use of the property. Martin stated that this site is particularly well suited for a restaurant with residential apartments above. Martin noted that the negative criteria is also met as this better serves the community, building footprint will be unchanged, stormwater controls will be in place, neighborhood is not effected by renovation, and it is an improvement to current building.

Commissioner Eisenman asked about the hardship. **Board Planner Graviano** clarified that hardship is only a standard for the lot depth variance. The remainder of the use and bulk variances are examined under the flexible better zoning alternative standard and whether the site is particularly well suited to the proposed uses.

Commissioner Foukas asked how many years in business and was told it will be 10 years.

Board Planner Graviano believed that a site plan waiver should be granted as part of a <u>condition of approval</u> for the project. Graviano asked about the signs for the business. Applicant agreed as a <u>condition of approval</u> to only place signs on the property in compliance with the ordinance.

Capo reiterated that the Applicant plans on installing sprinklers in the building and will meet all fire code requirements as a <u>condition of approval</u>.

Applicant's representative, **Suzana Milich**, was sworn in. Milich provided testimony as to the hours of operation and trash removal procedures.

Chairman Zecchino asked if the site was BYOB and Milich responded in the affirmative but that it is a family friendly business so they try to keep the alcohol drinking to a minimum.

Commissioner Eisenman asked if they planned private parties and Milich advised that was not anticipated. The restaurant is very busy so a private party would hurt the current business model.

Commissioner Robol asked about trash pick and asked applicant to comply with Graviano letter.

Applicant closed and requested approval.

Vice-Chair Molner moved to approve. Commissioner O'Connor seconded the motion.

Commissioners Robol, Eisenman, Braid, O'Connor, Foukas, Vice Chair Molner, and Chairman Zecchino voted for approval. Motion passed 7-0.

ADOPTION OF MEMORIALIZING RESOLUTIONS/MINUTES

1. Resolution memorializing the denial of the application by Spark Car Wash, 25 Allwood Rd., Bl. 82.01, Lot 18.02; Zone: R-B1 for preliminary and final site plan, d(1) use variance, and associated (c) bulk variances to construct a new car wash facility.

Commissioner O'Connor made a motion to approve. Vice-Chair Molner seconded the motion; voting in favor are Commissioners Eisenman, Braid, O'Connor, Foukas, Vice Chair Molner, and Chairman Zecchino. The motion passed 6-0.

2. Resolution memorializing the approval of the application by Mohammad Qadadha, 282 Ackerman Avenue, Bl. 8.13 Lot: 18 Zone RB3 requesting a bulk variance to construct a driveway in the front of the residence.

Commissioner Eisenman made a motion to approve. Vice-Chair Molner seconded the motion; voting in favor are Commissioners Eisenman, Braid, O'Connor, Vice-Chair Molner, and Chairman Zecchino. The motion passed 5-0.

3. Resolution memorializing the approval of the application by Michael Laidlaw, 126 Rutgers Place, Bl. 27.11 Lot: 2 Zone RA2 to construct an addition at an existing non-conforming house with bulk variances.

Commissioner Foukas made a motion to approve. Vice-Chair Molner seconded the motion; voting in favor are Commissioners Eisenman, Braid, O'Connor, Foukas, Vice-Chair Molner, and Chairman Zecchino. The motion passed 6-0.

4. Resolution memorializing the approval of the application by Burger Experience LLC, 74 Lakeview Avenue, Bl. 7.05, Lot 55; Zone: M-2 for a use variance to operate a restaurant.

Commissioner Braid made a motion to approve. Vice-Chair Molner seconded the motion; voting in favor are Commissioners Eisenman, Braid, O'Connor, Foukas, Vice-Chair Molner, and Chairman Zecchino. The motion passed 6-0.

5. Resolution memorializing the approval of the application by Stew Leonard III Water Safety Foundation Inc., 1075 Bloomfield Avenue, Bl. 79.01, Lot 1; Zone: B-D for a site plan, d(1) use variance and bulk variances to renovate commercial site into swim school facility.

Commissioner O'Connor made a motion to approve. Commissioner Eisenman seconded the motion; voting in favor are Commissioners Eisenman, Braid, O'Connor, Foukas, Vice-Chair Molner, and Chairman Zecchino. The motion passed 6-0.

6. Minutes of the March 19, 2025 Regular Meeting.

Commissioner O'Connor made a motion to approve. Vice-Chair Molner seconded the motion; voting in favor are Commissioners Robol, Eisenman, Braid, O'Connor, Foukas, Vice-Chair Molner, and Chairman Zecchino. The motion passed 7-0.

There being no further business before the Board, Commissioner Foukas moved to adjourn. The motion was seconded by Commissioner Braid, with the unanimous approval of all Board members present, the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

JOSEPH M. WENZEL, ESQ.,
COUNSEL SECRETARY