

Board of Adjustment
Minutes
September 21st, 2016

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held at the Council Chambers, City Hall, Clifton, New Jersey, on Wednesday, September 21, 2016. Chrmn Mark Zecchino 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" all notice requirements were satisfied. Chrmn Zecchino announced the time, place, and form of notice as well as advising all applicants 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.

PRESENT: COMRS PAUL GRAUPE, DANIEL TRENK, LOUIS DE STEFANO, STEPHEN CHRISTOPHER, ROY NOONBURG, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR KEITH LA FORGIA.

Chrmn Zecchino advised all applicants that the testimony given before the Board was being tape recorded. The applicants were further advised of the right of appeal and the procedure to obtain a stenographic record of the Board.

Upon motion made by Comr Louis DeStefano, seconded by Comr Stephen Christopher, the Minutes of the September 7, 2016, regular meeting were adopted with the unanimous approval of the entire Board.

Upon motion made by Comr Louis DeStefano, seconded by Vice-Chrmn Gerard Scorziello, the Minutes of the September 14, 2016, special meeting were adopted with the unanimous approval of the entire Board.

INSPECTION AND DECISION

1. 206 CLIFTON PARTNERS LLC,
Use 206 Delawanna Avenue, Block 60.14,
Variances; Lots 13 and 33 – M-2 & M-3 – 1. Use

Variances variance under N.J.S.A. 40:55D-70d(1) to permit multi-family residential uses in the M-2 and M-3 zones whereas residential uses are not permitted in these zones and a use variance under N.J.S.A. 40:55D-70d(6) to permit a building height of 46.33 feet whereas only 40 feet is permitted; 2. Preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50 to allow a four (4) story, eighty (80) unit apartment building consisting of sixty-six (66) one-bedroom apartment units and eight (8) two-bedroom apartment units with a total of 146 off-street parking spaces (as required by and conforming with the Residential Site Improvement Standards); 3. In addition, applicant seeks dimensional variances under N.J.S.A. 40:55D-70c for the following: to permit a lot area of 4.3 acres for buildings 41 to 80 feet in height within the M-3 zone whereas a minimum of 5 acres is required; to permit a lot width of 125.5 feet whereas a minimum of 250 feet is required; and to permit a monument sign to be installed ten (10) feet from the front property line and within the front yard setback, whereas signs are required to have a 30 foot front yard setback. The applicant may also apply for such variance relief, exceptions, waivers, permits, approvals or licenses that are deemed necessary or appropriate by the applicant or the Board, and which may arise during the course of the hearing process.

At the request of the attorney for the applicant, this matter was continued to the October 19, 2016, meeting of the Board.

CONTINUED HEARINGS

1. **YESHIVA KTANA OF PASSAIC, INC.,**
Variances; 288, 292, 296, 300 & 304 South
Use Parkway, Block 59.01, Lots 8, 11,
Variance 13, 15 & 17 – R-B2 – Appeal or
application for a use variance required
to permit the demolition of the
existing houses on the lots listed
above and the construction of a
parking lot thereon to service the
abutting Yeshiva Ktana school in
the City of Passaic; and bulk
variances required for front yard setback
(25 feet required, 6 feet proposed),
side yard setbacks (20 feet
required, 6 feet proposed), rear
yard setback (35 feet required,
0 feet proposed), fence height and
open space (4 feet 50% open fence
permitted maximum, 4 foot high solid
wall with 6 foot high 50% open fence
in front of wall proposed), parking and
maneuvering in front yard, parking
within 10 feet of the rear line and
failure to provide interior lot landscaping,
and any other variances that may be
determined by the Board to be required.

This matter was previously continued by the Board to a special meeting to be held on October 26, 2016.

2. VINCENT SAURO, 37 Harding Avenue,
Variances (1150 Main Avenue), Block 12.05, Lot 1
– B-C – Variances required to convert
existing tenant space into a comedy club/
restaurant use. 1. Comedy Club not listed
as permitted use-use variance required.
2. Applicant space requires 45 parking
spaces plus parking for two other tenant
areas within the building no on-site parking
provided. 3. Existing nonconforming
building setback and lot coverage.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Vincent Sauro of 95 Lincoln Avenue, Clifton, New Jersey. There were no objectors

This is a continued hearing from the meeting of August 17, 2016.

Mr. Carlet stated that the applicant will provide security at the premises; that the premises are located in the Main Avenue Overlay District which does permit the restaurant use; that the applicant will stipulate that it must continue the lease of the premises across the street providing for parking for 45 spaces; that in the event that the applicant is unable to maintain the lease, then he will be unable to conduct the proposed comedy club.

Chrmn Zecchino called the Board's attention to the provisions of the entertainment license ordinance which requires a hearing before the Mayor and Municipal Council and notice to all interested parties in the area.

Counsel Pogorelec advised the Board that in the event a favorable vote is taken, that the grant of the use variance must be conditioned upon the applicant obtaining an entertainment license approved by the Mayor and Municipal Council as well as a liquor license issued by the Alcoholic Beverage Control Board of the City of Clifton; that the parking requirement should be stipulated, and that the applicant would be required to comply with all recommendations of the Fire Department of the City of Clifton and the Police Department of the City of Clifton.

After review, Comr Roy Noonburg moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the following stipulations:

1. That the applicant obtain approval from the Mayor and Municipal Council of the City of Clifton for an entertainment license;
2. That the applicant must maintain a lease for 45 parking spaces across the street for the premises;
3. That the applicant must obtain a liquor license from the Alcoholic Beverage Control Board of the City of Clifton;
4. That the applicant comply with all requirements of the Clifton Fire Department and the Clifton Police Department;
5. Subject to Passaic County Planning Board approval.

The motion was seconded by Comr George Foukas. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

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| 3. | ALDEN TRANSPORTATION CORPORATION, |
| Use | 82 Circle Avenue, Block 15.14, Lot 33 – M-2 – |
| Variance; | Applicant proposes to build a school bus |
| Variance | storage and repair facility. Use variance |
| | required for a dispatch service within an M-2 |
| | district. Bulk variance relief from front yard |
| | setback, maximum lot coverage, parking in |
| | the front yard. |

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Suite 204, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was William J. Martin, an architect and planner, with offices at 25 Boulevard, Westwood, New Jersey. There were a number of objectors, some of whom were sworn to give testimony: Steve Mazur, 23 Montclair Avenue; Marlo Mazur, 23 Montclair Avenue;

Marporet Bebon, 41 Norwood Avenue; Eyad Bader, 19 Norwood Avenue; Khal Sawalhi, 55 Norwood Ave.; Helen Talente, 32 Norwood Avenue; Alme Abdallah, 34 Adams Street; Nancy Gerbino, 46 Prospect Street; Nura Abdallah, 34 Adams Street; Mohammad Abdallah, 34 Adams Street; Douet Sarrett, 59 Adams Street; Henk Kassteen, 22 Butler Street; Norman Salueson, 19 Butler Street; Dorothy DeLiberto, 39 Inwood Street; Joseph DeLiberto, 39 Inwood Street; Nicholas Basseno, 39 Prospect Street; Marisel Rosario, 55 Prospect Street; Arthur Clau, 53 Prospect Street; Usyen Ramadan, 20 Montclair Avenue; Sandra Zwier, 19 Montclair Avenue; Anthony J. Longo, 26 Montclair Avenue; Omar B. Rimani, 52 Prospect Street; Elizabeth Unger, 23 Butler Street; Ed Welsh, 159 West 2nd Street, all of the City of Clifton, New Jersey.

This is a continued hearing from the meetings of June 15, 2016, and August 17, 2016.

Comr George Foukas excused himself, and Comr Daniel Trenk sat in his place and stead.

Offered into evidence were the following exhibits:

“A-3” a Motor Vehicle Bus Inspection application;

“A-4” an exhibit containing the tax map, a google map, six photographs, a floor plan and the exterior of the building.

Chrmn Zecchino noted that the Board is in receipt of a report from the Clifton Fire Department dated September 20, 2016.

Mr. Martin testified as a planner and architect and stated that the premises is located in an M-2 zone; that the uses permitted in the M-2 zone are more intense than the proposed use; that the applicant has satisfied the positive and negative criteria required for the grant of a use variance and the bulk variances; that the application satisfies a number of goals set forth in the master plan; that an appropriate buffer will be provided; that the use variance is required for a dispatch service within an M-2 zone; that the front yard setback variance is 2.3 feet; that the lot coverage variance is 22.2 feet; that the parking aisle in the front yard is not permitted, and the applicant is requesting approval to park cars in the front of yard;

that the buffer variance is 30 feet; that the applicant is requesting also a variance for the solid fence proposed; that the hours of operation are from 7 A.M. to 5 P.M., Monday through Friday; that on Saturday, there is maintenance conducted at the site; that Sunday, the premises is closed; that the applicant has made every effort to move all vehicles onto Kuller Road; that the premises will be closed during the Christmas and Easter Holidays as well as normal holidays, and if school is not in session due to snow, then the premises will not operate.

There were a number of questions raised by objectors Douet Sarrett, Eyad Bader, Marlo Mazur, Khal Sawalhi, Helen Talente, Elizabeth Unger, and Nancy Gerbino concerning traffic; the hours of operation; the insufficiency of parking at the site; noise and decibel levels; odors and pollution; and the devaluation of property values.

Planning Consultant Kathryn Gregory stated that the property is extremely narrow and it would be difficult for any proposed user to develop the property; that in her opinion, it is suitable for the site because of the shape.

Chrmn Zecchino noted that in his opinion, the proposal represents an overuse of the premises.

Abdul Chauditry of 541 Totowa Avenue, Clifton, New Jersey, the owner of the premises and conductor of the business, was present and sworn. Mr. Chauditry testified that the buses end at 4 P.M. to 5 P.M.; that there are two or three in the aisle stacked up going from the site in the morning; that the driver picks up aides; that this site will service 55 buses, and the 75 buses from the other site will not be at this site.

In response to questions raised by Douet Sarrett, Edward Welsh, Eyad Bader, and Marlo Mazur, Mr. Chauditry testified that he has 40-45 full-time bus drivers; that once the bus driver picks up the students and drives the students to school, then the driver takes the bus and goes home until he has to pick-up the students at the end of the day; that the drivers travel through residential areas to pick-up employees; that there are approximately 25 aides for the 55 employees; that he will hire approximately 45 bus drivers; that he will have two mechanics; that he does not have the 55 buses, but he can have them in two weeks contingent upon the approval by the Board; that he is willing to stipulate that a designated employee will be assigned to park the vehicles of the drivers after the bus is pulled out.

In closing statements, Edward Welsh, Marlo Mazur, Omar Rimani, Eyad Bader, Douet Sarrett, Joseph DeLiberto, Nancy Gerbino, and Nicholas Bassano stated that the applicant never provided a traffic report; that the applicant never provided a report concerning decibel readings at the site; that there is no environmental report provided by the applicant as requested by the planner; that the proposal will not work at the site; that there were many unanswered questions; that the objectors are concerned with noise, odor, pollution; that the applicant has not sustained the burden of proof; that the testimony was inconclusive, and the Board should deny the application.

Mr. Peterson stated that the applicant has satisfied the burden of proof; that the applicant has made every effort to utilize Kuller Road as the entrance and exit to the property and avoid Circle Avenue; that the other permitted uses of the M-2 zone are more intense than the applicant's proposal; that the Board should grant the application.

After a review of the testimony, Comr Roy Noonburg moved to deny the application on the grounds that it represents a gross overuse of the premises and instructed the Counsel Secretary to prepare the proper Resolution for denial of the application. The motion was seconded by Comr Stephen Christopher, who stated that he questions the accuracy of the testimony, that the testimony was unclear, that there are too many flaws and unanswered questions; Comr Paul Graupe who stated that the applicant does not sustain the burden of proof; Vice-Chrmn Gerard Scorziello who questioned the unclear testimony and stated there were too many flaws; and Chrmn Mark Zecchino who stated that he does not feel the application will work, that the applicant refused to provide a traffic report and an environmental report and a noise level report which would have resolved many of the questions, that in his opinion, it is a gross overuse of the premises. Voting against the motion were Comrs Daniel Trenk who stated that this use is less intense than the permitted uses, and Comr Louis DeStefano who stated considering the testimony of even the Board's planner that this is a suitable use to the site. By a five to two vote, the motion carried, and the application was denied in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete
testimony presented to the Board and

upon which this decision is based.

NEW HEARINGS

1.

Variance
- ROBERT PAZDEN, 36 Rosedale Avenue,
Block 40.15, Lot 21 – RA3 – Variance
required for a second story addition:
1. Combined side yard proposed at
14.75’ where a minimum of 16’ is
required.

The applicant, residing at 36 Rosedale Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests variance approval for a second story addition at the subject premises; that the combined side yard requirement was 16 feet, and he is proposing 14.75 feet.

After a review of the testimony, Comr George Foukas moved to grant the application, citing the fact that the variance requested is *de minimis*, approximately 1.25 feet, and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variance. The motion was seconded by Comr Daniel Trenk. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete
testimony presented to the Board and
upon which this decision is based.

2.

Variance
- CARLA & KAMAU DE SILVA, 528 Clifton
Avenue, Block 20.05, Lot 20 – BA1 – Variance
required for a proposed 6’ high solid fence on
the rear lot line and left side yard, where 5’
high fence is permitted in the rear yard and
a 4’ high, 50% open fence is permitted

along side the home.

Carla DeSilva, residing at 528 Clifton Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that she requests variance approval for a proposed 6-foot-high solid fence on the rear lot line and left side yard where 5 feet high is permitted in the rear and a 4-foot-high 50% open fence is permitted alongside the home; that the purpose of the fence is to eliminate noise, provide security for her child due to the proximity of the home to the street; that the proposed fence will improve the quality of life at the site.

After discussion, the Board suggested that a 5-foot-high solid fence with a 1-foot-high lattice for a total of 6 feet may be more aesthetically pleasing. The applicant agreed and stipulated that she would comply if the Board granted the approval.

Thereupon, Comr Louis DeStefano moved to grant the application for a 5-foot-high solid fence with a 1-foot lattice at the top of the fence for a total of 6 feet at the subject premises and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr Stephen Christopher. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

3. **MIECZYSLAW WYKA, 21 Mayflower Drive,**
Variance **Block 40.02, Lot 31 – RA2 – Variance**
required to widen the driveway 5’ across
the front of the house in an area not
serving a garage.

The applicant, residing at 21 Mayflower Street, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests variance approval to widen the driveway 5 feet across the front of the house in an area not serving a garage at the subject premises; that the purpose of widening the driveway is to take cars off the street; that the area is vacant and may be better utilized for parking purposes.

After a review of the testimony, Comr Daniel Trenk moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variance. The motion was seconded by Comr Stephen Christopher. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

RESOLUTIONS

Chrmn Mark Zecchino stated that the next order of business would be the adoption of the Resolutions set forth on the Agenda.

1. Upon motion made by Comr Stephen Christopher, seconded by Comr Roy Noonburg, and affirmed by Comrs Louis DeStefano, Stephen Christopher, Roy Noonburg, and George Foukas, the Resolution DENYING the application of BLANCA FABARA for variance required for a driveway that has been expanded 5 feet into the front yard of the house in an area not serving a garage at 419 Hillside Avenue, Block 81.16, Lot 2, was adopted. RA3

2. Upon motion made by Comr George Foukas, seconded by Comr Paul Graupe, and affirmed by Comrs Paul Graupe, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DENYING the application of ROHIT SHAH for

a use variance for a social senior citizen center at 567 Van Houten Avenue, Block 43.04, Lot 3, was adopted. B-C

3. Upon motion made by Comr Louis DeStefano, seconded by Comr Stephen Christopher, and affirmed by Comrs Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of PATRICIA HOPP AND GUISEPPE INGUI for a rear yard setback variance for a rear deck at 10 Manor Drive, Block 52.04, Lot 33, was adopted. RA1

4. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Stephen Christopher, and affirmed by Comrs Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of YOHANNY ARAKAKI & MARC MC SWEENEY for a second floor deck over an existing addition and variances for right side yard setback, rear yard setback, and distance between deck and garage at 12-14 Sunnycrest Avenue, Block 41.11, Lot 3, was adopted. RA3

5. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Stephen Christopher, and affirmed by Comrs Louis DeStefano, Stephen Christopher, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of COSTCO WHOLESALE CORP. for use variance for an expansion of an existing, non-conforming use and bulk variances for number of loading berths and lot coverage for an addition of a gas island and an addition to the building for a meat cooler area at 168 Main Avenue and 20 Bridewell Place, Block 72.06, Lots 38 and 42, was adopted. M-2

6. Upon motion made by Comr George Foukas, seconded by Comr Stephen Christopher, and affirmed by Comrs Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of LET IT GROW, INC. and NEW MINGLEWOOD, LLC for minor subdivision relocating the boundary line of Lot 2.02 and 2.03; use variance for a multi-tenant office building, truck storage, warehouse, and a landscape contractor equipment and material storage yard and bulk variances for number of parking spaces, parking and maneuvering areas in front yard, interior parking area landscaping, parallel parking dimension, sign front yard setback, and sign side yard setback and preliminary and final site plan

approval at 14 Ackerman Avenue, Block 3.16, Lot 2.03 REAR and Lot 2.02, was adopted. PD3

There being no further business before the Board, Comr Stephen Christopher moved to adjourn. The motion was seconded by Vice-Chrmn Gerard Scorziello with the unanimous approval of the entire Board.

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF SEPTEMBER 21, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: VINCENT SAURO
for premises known as: 37 Harding Avenue (1150 Main Avenue),
Block 12.05, Lot 1
be and the same is hereby: GRANTED use variance and parking variance for a comedy club.

Testimony concerning the aforesaid application was taken by the Board at its meeting on August 17, 2016, and September 21, 2016. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Roy Noonburg moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval to convert an existing tenant space into a comedy club and restaurant use and parking variance at premises located at 37 Harding Avenue (1150 Main Avenue), Block 12.05, Lot 1, which premises are located in a B-C zone; and

WHEREAS, the Board, after hearing the testimony presented by the applicant and its expert, has made the following factual findings:

- a. The applicant requests use variance approval for a comedy club and restaurant which was previously tenant space at the subject premises;
- b. The applicant's architect testified that the comedy club and restaurant will be approximately 2,250 square feet and that 120 seats will be provided;
- c. The applicant's planner testified that the proposal satisfies the positive criteria in that it serves several purposes as set forth in N.J.S.A. 40:55-2;
- d. That the proposal will create no negative impact and that the omission of a comedy club from the ordinance results in the fact that comedy clubs were never considered when the zoning ordinance was written;
- e. That the site is suitable for the proposed use;
- f. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;

- g. The proposed restaurant use is a permitted use in the Main Avenue Overlay District zone;
- h. The applicant has shown sufficient hardship to justify the grant of the parking variance requested;
- i. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since the applicant will be required to obtain an entertainment license approved by the Mayor and Municipal Council of the City of Clifton; and

WHEREAS, the Board further finds that the proposal will not be detrimental to the health, safety, and general welfare of the community since there were no objectors and that the applicant will be required to maintain a lease for parking spaces across the street from the subject premises;

(CONTINUED)

(CONTINUED)

NOW THEREFORE, BE IT RESOLVED that the application for a comedy club at premises located at 37 Harding Avenue (1150 Main Avenue), Block 12.05, Lot 1, be and the same is hereby approved and the use variance and parking variance be and the same are hereby granted subject to such further governmental approvals as may be required by law and subject to the following conditions:

1. That the applicant obtain approval for an entertainment license from the Mayor and Municipal Council of the City of Clifton;
2. That the applicant must continue to maintain the lease for 45 parking spaces across the street from the subject premises;
3. That the applicant must obtain a liquor license from the Alcoholic Beverage Control Board of the City of Clifton;
4. That the applicant comply with all requirements of the Clifton Fire Department and the Clifton Police Department;
5. That the applicant provide adequate security at the site as required by the Clifton Police Department;
6. Subject to Passaic County Planning Board approval.
7. That the failure of the applicant to comply with any one of the above conditions will result in the revocation of this Resolution.

NO PERMITS ARE TO ISSUE UNLESS AND UNTIL THE FINAL SEALED PLANS REFLECTING ANY CHANGES OR AMENDMENTS HAVE BEEN SUBMITTED AND APPROVED.

THIS RESOLUTION, IF NOT ACTED UPON (OBTAIN A BUILDING PERMIT) WITHIN ONE (1) YEAR OF THE DATE OF ADOPTION OF THIS RESOLUTION, SHALL BECOME NULL AND VOID, OR AS AMENDED.

NO BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNLESS THE REQUIRED COUNCIL ON AFFORDABLE HOUSING (COAH) FEE AS DETERMINED BY THE REQUIRED MUNICIPAL OFFICIALS AND THE MUNICIPAL HOUSING LIASON IS PAID. THIS WILL APPLY TO EITHER THE APPLICANT OR THE OWNER UPON SUBMISSION OF REQUIRED PLANS FOR BUILDING PERMITS.

Resolution moved by: Comr ROY NOONBURG.

Seconded by: Comr GEORGE FOUKAS.

Affirmed by: Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 21, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ALDEN TRANSPORTATION CORPORATION
for premises known as: 82 Circle Avenue, Block 15.14, Lot 33
be and the same is hereby: DENIED use variance and bulk variances for a school bus storage and repair facility.

Testimony concerning the aforesaid application was taken by the Board at its meetings on June 15, 2016; August 17, 2016; and September 21, 2016. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Roy Noonburg moved to deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval for a school bus storage and repair facility at premises located at 82 Circle Avenue, Block 15.14, Lot 33, which premises are located in a B-C zone; and

WHEREAS, the Board, after hearing the testimony presented by the applicant and its experts, has made the following factual findings:

a. The applicant proposes to construct a 4,982 square-foot single-story building for use as a bus repair facility and a parking area for 55 bus parking spaces and 9 automobile parking spaces at the subject premises, which is bounded by single-family residential to the north and east of the subject premises; and

b. The applicant produced as an expert a professional engineer who gave testimony concerning the buses backing into the parking spaces provided and once the buses are in use, the vehicles will be parked in the spaces left vacant by the vehicles for the drivers of said buses and further made comments concerning the report of Neglia Engineering dated May 4, 2016, and revised June 14, 2016 and revised August 16, 2016; however, there was no response to outstanding items by the applicant's engineer to the Board's consulting engineer, Neglia Engineering;

c. The Board heard testimony from the applicant's planner who testified as to his opinion concerning the positive criteria required for a use variance and goals satisfied by the applicant concerning the master plan; that the use is suitable for the site and

less intense than permitted uses;

d. Despite the requests from the Board to furnish a traffic report concerning egress and ingress to the site and the use of Circle Avenue and Kuller Road, the applicant failed to submit said report;

e. Despite the requests of the Board for a decibel noise report to determine any impact the idling of buses, noise, and pollution the proposal would have at the site, the applicant failed to produce said report;

f. The Board requested that the applicant provide an environmental impact statement as required under Section 464-24.8b(1) which the applicant did not furnish;

g. The testimony of the applicant's experts contained too many flaws, was unclear, and not responsive to the many questions raised by the members of the Board and the objectors;

(CONTINUED)

(CONTINUED)

h. The applicant failed to sustain the burden of proof required for a use variance in that no special reasons were advanced to support the application and the failure of a traffic report and the failure to provide a traffic report as requested by the Board left unresolved many questions raised concerning the access to and egress from the site, adequacy of parking at the site, and noise, odor, and pollution which may derive from the operation of the proposal;

i. The applicant has shown no hardship to justify the grant of the c variances for minimum front yard, maximum lot coverage, parking aisle in front yard, minimum buffer, and fence construction;

j. Based upon the testimony of the objectors, the proposal will have an adverse effect on the neighborhood because of traffic, noise, odors, and pollution;

k. The detriments of the application outweigh the benefits, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal represents a gross overuse of the premises since the permissible lot coverage permitted is 60 percent and the applicant is seeking 82.2 percent use of the premises; and

WHEREAS, the Board further finds from the testimony presented that the proposal will not be in accord with the intent and purpose of the master plan and the zone ordinance which encourages the appropriate use of development of all lands in Clifton which will promote the public health, safety, morals, and general welfare; and

WHEREAS, the Board further finds that the proposal will be detrimental to the surrounding residential neighborhoods and will not preserve the environment; and

WHEREAS, the Board finds that the proposal may have a detrimental effect on the free flow of traffic resulting in congestion and unsafe conditions;

NOW THEREFORE, BE IT RESOLVED that the application to build a school bus storage and repair facility at premises located at 82 Circle Avenue, Block 15.14, Lot 33, be and the same is hereby disapproved and the use variance, front yard setback variance, lot coverage variance, parking aisle in front yard variance, minimum buffer and fence construction variances be and the same are hereby denied.

Resolution moved by: Comr ROY NOONBURG.

Seconded by: Comr STEPHEN CHRISTOPHER.

Affirmed by: Comrs Paul Graupe, Stephen Christopher, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 21, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ROBERT PAZDEN
for premises known as: 36 Rosedale Avenue, Block 40.15, Lot 21
be and the same is hereby: GRANTED a minimum side yard variance for a second story addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 21, 2016. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr George Foukas moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid for a second story addition at premises located at 36 Rosedale Avenue, Block 40.15, Lot 21, which premises are located in an RA3 zone; and

WHEREAS, the Board, after hearing the testimony presented by the applicant, has made the following factual findings:

- a. The applicant proposes a second story addition at the subject premises and seeks a side yard setback variance of 1.25 feet where 16 feet is required and the applicant is proposing 14.75 feet;
- b. The applicant has shown sufficient hardship to justify the grant of the variance;
- c. The benefits of the application outweigh the detriments, if any;
- d. The variance of 1.25 feet is *de minimis*; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that there has been no testimony presented to show that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a second story

addition at premises located at 36 Rosedale Avenue, Block 40.15, Lot 21, be and the same is hereby approved and the combined side yard setback variance of 14.75 feet variance be and the same is hereby granted subject to such further governmental approvals as may be required by law.

NO PERMITS ARE TO ISSUE UNLESS AND UNTIL THE FINAL SEALED PLANS REFLECTING ANY CHANGES OR AMENDMENTS HAVE BEEN SUBMITTED AND APPROVED.

THIS RESOLUTION, IF NOT ACTED UPON (OBTAIN A BUILDING PERMIT) WITHIN ONE (1) YEAR OF THE DATE OF ADOPTION OF THIS RESOLUTION, SHALL BECOME NULL AND VOID, OR AS AMENDED.

NO BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNLESS THE REQUIRED COUNCIL ON AFFORDABLE HOUSING (COAH) FEE AS DETERMINED BY THE REQUIRED MUNICIPAL OFFICIALS AND THE MUNICIPAL HOUSING LIASON IS PAID. THIS WILL APPLY TO EITHER THE APPLICANT OR THE OWNER UPON SUBMISSION OF REQUIRED PLANS FOR BUILDING PERMITS.

Resolution moved by: Comr George Foukas.

Seconded by: Comr Daniel Trenk.

Affirmed by: Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 21, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CARLA & KAMAU DE SILVA
for premises known as: 528 Clifton Avenue, Block 20.05, Lot 20
be and the same is hereby: GRANTED a 5-foot-high solid fence with a 1-foot lattice for a total of 6 feet on the rear lot line and left side yard.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 21, 2016. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval for a 6-foot-high solid fence at premises located at 528 Clifton Avenue, Block 20.05, Lot 20, which premises are located in a BA1 zone; and

WHEREAS, the Board, after hearing the testimony presented by the applicant, has made the following factual findings:

- a. The applicant requests approval for a 6-foot-high solid fence on the rear line and left side yard where 5 feet high is permitted in the rear yard and a 4-foot-high 50% open fence is permitted alongside the home;
- b. The purpose of the fence is to provide security for the child at the house and also eliminate noise;
- c. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- e. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that the proposal will not be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a 6-foot-high fence at premises located at 528 Clifton Avenue, Block 20.05, Lot 20, be and the same is hereby approved and the variance be and the same is hereby granted subject to such further governmental approvals as may be required by law subject to Passaic County Planning Board approval, if required and subject to the stipulation that the fence be a 5-foot-high solid fence with a 1-foot lattice on top for a total of 6-feet high.

NO PERMITS ARE TO ISSUE UNLESS AND UNTIL THE FINAL SEALED PLANS REFLECTING ANY CHANGES OR AMENDMENTS HAVE BEEN SUBMITTED AND APPROVED.

THIS RESOLUTION, IF NOT ACTED UPON (OBTAIN A BUILDING PERMIT) WITHIN ONE (1) YEAR OF THE DATE OF ADOPTION OF THIS RESOLUTION, SHALL BECOME NULL AND VOID, OR AS AMENDED.

NO BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNLESS THE REQUIRED COUNCIL ON AFFORDABLE HOUSING (COAH) FEE AS DETERMINED BY THE REQUIRED MUNICIPAL OFFICIALS AND THE MUNICIPAL HOUSING LIASON IS PAID. THIS WILL APPLY TO EITHER THE APPLICANT OR THE OWNER UPON SUBMISSION OF REQUIRED PLANS FOR BUILDING PERMITS.

Resolution moved by: Comr Louis DeStefano.

Seconded by: Comr Stephen Christopher.

Affirmed by: Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 21, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MIECZYSLAW WYKA
for premises known as: 21 Mayflower Street, Block 40.02, Lot 31
be and the same is hereby: GRANTED variance to widen the driveway 5 feet
across the front of the house in an area not serving a garage.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 21, 2016. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Daniel Trenk moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid for premises located at 21 Mayflower Street, Block 40.02, Lot 31, which premises are located in an RA2 zone; and

WHEREAS, the Board, after hearing the testimony presented by the applicant, has made the following factual findings:

- a. The applicant requests approval to widen the driveway 5 feet across the front of the yard;
- b. The widening of the driveway will be in front of the house in an area not serving a garage;
- c. The purpose of the widening is to take vehicles off the street and park on the property;
- d. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- e. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that there has been no testimony presented to show that the proposal will be detrimental to the health, safety, and general welfare of

the neighborhood by taking vehicles off the street and parking on the site;

NOW THEREFORE, BE IT RESOLVED that the application as foresaid to widen the driveway 5 feet across the front of the house in an area not serving a garage at premises located at 21 Mayflower Street, Block 40.02, Lot 31, be and the same is hereby approved and the variance be and the same is hereby granted subject to such further governmental approvals as may be required by law.

NO PERMITS ARE TO ISSUE UNLESS AND UNTIL THE FINAL SEALED PLANS REFLECTING ANY CHANGES OR AMENDMENTS HAVE BEEN SUBMITTED AND APPROVED.

THIS RESOLUTION, IF NOT ACTED UPON (OBTAIN A BUILDING PERMIT) WITHIN ONE (1) YEAR OF THE DATE OF ADOPTION OF THIS RESOLUTION, SHALL BECOME NULL AND VOID, OR AS AMENDED.

NO BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNLESS THE REQUIRED COUNCIL ON AFFORDABLE HOUSING (COAH) FEE AS DETERMINED BY THE REQUIRED MUNICIPAL OFFICIALS AND THE MUNICIPAL HOUSING LIASON IS PAID. THIS WILL APPLY TO EITHER THE APPLICANT OR THE OWNER UPON SUBMISSION OF REQUIRED PLANS FOR BUILDING PERMITS.

Resolution moved by: Comr DANIEL TRENK.

Seconded by: Comr STEPHEN CHRISTOPHER.

Affirmed by: Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.