Board of Adjustment

Minutes

January 20th, 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, January 20, 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 DANIEL TRENK, LOUIS DE STEFANO, KEITH LA FORGIA, STEPHEN CHRISTOPHER, ROY NOONBURG, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR PAUL GRAUPE.

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 Keith LaForgia, seconded by Comr Stephen Christopher, the Minutes of the January 6, 2016, regular meeting were adopted with the unanimous approval of the entire Board.

ADOPTION OF ANNUAL REPORT - 2015

Chrmn Zecchino called the Board's attention to the 2015 Annual Report prepared by Gregory Associates, LLC, in compliance with the provisions of N.J.S.A. 40:55D-70.1 calling for annual decisions by the Board on applications and appeals for variances. Upon adoption of the report, copies of same shall be forwarded to the Governing Body and Planning Board.

Thereupon, Comr Stephen Christopher moved to approve the report. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, 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 2015 Annual Report was adopted.

In furtherance thereof, Counsel Pogorelec was instructed to prepare the proper Resolution and forward copies of the report to the Governing Body and the Planning Board.

CONTINUED HEARINGS

1. **YESHIVA KTANA OF PASSAIC, INC.,**

Variances; Use Variance — 288, 292, 296, 300 & 304 South Parkway, Block 59.01, Lots 8, 11, 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 January 26, 2016.

2.	**CLIFTON CENTRE COMMERCE III**,
Amended Site Plan	65 Industrial South and 35 Bloomfield Ave., Block 56.08, Lots 4 and 13 – M-1 – Amended site plan approval required to permit relocation and increase of existing and proposed loading docks as shown on Amended Site Plan.

This matter was previously continued by the Board until the February 17, 2016, meeting of the Board.

3.	**LUCY SPIEWAK**, 301 Luddington Avenue,
Variances	Block 19.12, Lot 2 – RA3 – Variances required for the construction of a second story addition to the rear of the home: 1. Left side yard proposed at 5.6 feet (over existing); 2. Combined side yards proposed at 12.5 feet (at stair) where 16 feet is required; 3. Addition of storage area to right side of house appears to be on the property line where a 6 foot setback is required, and not shown on the plan; 4. Additional roof built behind proposed addition is not shown on the plan;

5. Storage structure built at the rear lot line appears too large and too close to lot lines and not shown on the plan;

6. Fence is between 7 feet and 8 feet high where it is permitted to be 5 feet high in rear yard and 4 feet high, 50 percent open along the side of the house;

7. Lot coverage cannot be calculated without all structures shown on the plan.

The applicant, residing at 301 Luddington Avenue, Clifton, New Jersey, was present and sworn. Also present and sworn were the following: Francois Nicolas of S.J. Kufel Architects, 119 Morris Turnpike, Randolph, New Jersey, and Nicholai Agarkov of 1664 Chandler Drive, Fair Lawn, New Jersey. There were no objectors.

This is a continued hearing from the meeting of December 2, 2015.

Chrmn Zecchino stated for the record that the applicant was given time from the initial hearing to clean-up the right side and back yard and reduce the size of the fence to conform; that an inspection of the premises by the Board members indicates nothing has been done; that the applicant is requesting approval to keep the shed which is 5- by 46-feet and also requesting lot coverage variance where 27 percent is permitted and 36 percent is requested.

The applicant offered into evidence which was marked “A-1” a statement from Nicholai Agarkov indicating what work was done to the premises since 1997.

After considerable discussion by the members of the Board and statements from the applicant that the premises will be cleaned up in the future, Comr Roy Noonburg moved to deny the application, stating that the applicant has failed to clean the premises as requested by the Board, and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr Keith LaForgia. Voting for denial were Comrs Louis DeStefano, Keith LaForgia, 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 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. Use Variance	**H.A.A.L. (HOMELESS ANIMAL ADOPTION LEAGUE)**, 236 Delawanna Avenue, Block 59.06, Lot 88 – M-2 – 1. Use variance required to operate a facility for the adoption of cats; 2. Any other variances deemed necessary by the Board.

Gerald G. Friend, Esq., with offices at 1000 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Frank D. Mileto of 14 Beaver Brook Drive, Long Valley, New Jersey, architect and planner; and JoAnn LoGreco of 41 Ridge Road, Roseland, New Jersey. There were no objectors.

Mr. Friend stated that the applicant is seeking use variance approval to operate a facility for the adoption of cats at the subject premises; that the premises has been a bar and presently a vacant bar for some time.

JoAnn LoGreco testified that the applicant proposes to operate a facility for the adoption of cats; that the proposed use will only be open to the public approximately three days a week, i.e. Sunday, Wednesday, and Saturday, with limited hours; that the volunteers will be at the site seven days a week for several hours to feed and take care of the cats for adoption; that the dumpster proposed will be in a 6-foot enclosure.

Mr. Mileto testified that the building is a two-story structure; that it is a vacant bar site; that the proposed use is less intensive than a bar; that the proposed use will be beneficial to the surrounding areas; that there will be a stairway from the second floor to the rear yard; that nine parking spaces are provided with one handicap space; that the lot will be repaved and striped; that lighting is from the Public Service light on the street; that there are no negative impacts—such as, noise or odors; that the site is particularly suited for the use proposed; that the applicant will use the original sign at the premises.

Offered into evidence which was marked “A-1” were six photographs showing the premises and the interior proposed cages.

After a review of the testimony, Comr Stephen Christopher moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the stipulation that the dumpster in the rear of the parking area be enclosed. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, 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. Use Variance; Variances	**UNIVERSAL SUPERMARKET**, 550 Lexington Avenue, Block 7.07, Lot 1 – BC/RB2 – 1. Use variance required as the property is in two zones, B-C and RB-2; 2. 44 parking spaces required and 33 provided. (Plus parking required for storage area.) 3. Existing nonconforming building setbacks; 4. Nonconforming parking lot setbacks; 5. 6’ buffer not provided between commercial use and residential uses; 6. Any other variances deemed necessary by the Board.

Gerald G. Friend, Esq., with offices at 1000 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Frank D. Mileto of 14 Beaver Brook Drive, Long Valley, New Jersey, an architect and planner; and Alpesh Patel of 32 White Oak Lane, Wayne, New Jersey. There were two interested parties: Vasilios and Irene Papastathopoulos of 165 East Clifton Avenue, Clifton, New Jersey.

Mr. Friend stated that the applicant is requesting a use variance to utilize the existing building for a supermarket in addition to the current liquor store use; that the previous use was a manufacturing use that was a more intense use and involved a substantial amount of truck traffic; that the area is in need of a supermarket, and the existing building will be upgraded and not expanded.

Mr. Patel testified that a portion of the existing building will be utilized for a retail supermarket and storage area; that 44 parking spaces are required and 33 are provided; that the hours of operation will be from 8 A.M. to 8 P.M., seven days a week; that there will be deliveries at the site between the hours of 9 A.M. and 1 P.M.; that there will be approximately 15 employees; that the applicant presently operates a delicatessen on Lakeview Avenue; that there will be approximately four to five deliveries a day to the site; that the applicant will utilize the sign in front of the store; that the dumpster will be located outside in the parking area with an enclosure; that the outside lighting will be high-pressure sodium lights; that there will not be an entrance from the liquor store to the grocery store, there will be two separate uses.

Irene Papastathopoulos testified that she is the adjacent neighbor, and she is concerned with noise problems arising from the liquor store; that she is concerned about the traffic on her street for deliveries; that parking is a problem.

On behalf of the applicant, Mr. Friend stipulated the following:

1. Deliveries will be made to the site from Seger Avenue; and
2. That the applicant will erect a 6-foot-high fence and a shrubbery buffer along the borderline of the property between the adjacent neighbor's property.

The Board reviewed the report of Neglia Engineering dated January 5, 2016, and the report of Gregory Associates dated January 8, 2016, and requested the planner, Frank D. Mileto, to comment on same.

Mr. Mileto stated that the property is in B-C and RB-2 zones; that it is an irregular-shaped piece of property; that there is parking of 44 spaces for the whole building; that no new curb cuts were proposed; that the proposed use is an improvement to the building and is particularly suited for the site; that there will be no noise, smoke, or odors.

Since the premises are on a County road, the applicant will be required to apply to the Passaic County Planning Board for approval.

Mr. Mileto further stated that the applicant will comply with all recommendations set forth in the Neglia Engineering Associates report dated January 5, 2016, and that deliveries shall be scattered, not trucks stacked up all at once, between the hours of 9 A.M. and 1 P.M.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the use variance and preliminary site plan approval and parking variance for the use subject to the applicant erecting a fence and shrubbery buffer along the property line of the adjacent neighbor; and further that deliveries be from Seger Avenue between the hours of 9 A.M. and 1 P.M.; and subject to Passaic County Planning Board approval. Vice-Chrmn Scorziello further instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr Roy Noonburg. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, 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. **AVI & DEBORAH UNGER**, 38 Alvin Court,

Variances — Block 57.04, Lot 10 – RA3 – Variances required for an addition and alteration: Applicant was previously granted a variance for a rear yard deck on 1/21/15. Applicant proposes to enclose a portion of this deck to create a playroom/dining area and extend deck an additional 4.1'. Rear yard proposed at 24.4' where 35' is required; lot coverage proposed at

34.17% where 27% is permitted; left side yard proposed at 5' where 6' is required.

The applicants, residing at 38 Alvin Court, Clifton, New Jersey, were present and affirmed to give testimony. Also present and sworn was William J. Martin, an architect and planner, of 25 Boulevard, Westwood, New Jersey. There were no objectors.

Mr. Martin testified as an architect and stated that variances were previously granted by the Board for a rear yard deck on January 21, 2015; that the applicant is now requesting an addition and alteration to said variance granted; that the applicant proposes to enclose a portion of the deck approved to create a playroom/dining area and extend the deck an additional 4.1 feet; that a rear yard setback variance is proposed for 24.4 feet where 35 feet is required; that the lot coverage permitted is 27 percent, and the applicant is requesting 34.17 percent; that the left side yard setback requirement is 6 feet, and the applicant is proposing 5 feet; that the area to the rear is a park.

Both applicants concurred with the testimony presented by Mr. Martin.

After a review of the testimony, Comr Keith LaForgia moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variances requested. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting for the motion were Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting against the motion were Comrs Roy Noonburg and George Foukas. By a five to two 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 Keith LaForgia, seconded by Comr Louis DeStefano, and affirmed by Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of CHRISTOPHER BELLINI for right side yard setback, combined side yard setback, and lot coverage variances for a rear, two-story addition at 24 Myron Street, Block 59.08, Lot 31, was adopted. RB1

2. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Stephen Christopher, and affirmed by Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of NADA BARDAGHJI for variances for an installed fence at 48 Hobart Place, Block 20.03, Lot 35, provided that the fence is relocated on the applicant's property was adopted. RB1

3. Upon motion made by Comr Keith LaForgia, seconded by Comr Louis DeStefano, and affirmed by Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, Roy Noonburg, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JAMAL TARAFDAR for variance for a driveway installation at 211 Washington Avenue, Block 18.11, Lot 9, was adopted. RA3

4. Upon motion made by Comr Roy Noonburg, seconded by Comr Keith LaForgia, and affirmed by Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MCP ASSOCIATES, L.P. for bulk variances to replace existing monument sign on Allwood Road with a pylon sign 18 feet high with no setback from Allwood Road at 790 Route 3 West, Block 80.01, Lot 15, was adopted. PD-HC

There being no further business before the Board, Comr Stephen Christopher moved to adjourn. The motion was seconded by Comr Keith LaForgia with the unanimous approval of the entire Board.

Respectfully submitted,

JOHN D. POGORELEC

COUNSEL SECRETARY

MEETING OF JANUARY 20, 2016.

R E S O L U T I O N

O F

C L I F T O N Z O N I N G B O A R D O F A D J U S T M E N T

WHEREAS, the Clifton Zoning Board of Adjustment is required by law to conduct an Annual Report which reviews its decisions on applications heard during the past year; and

WHEREAS, the Clifton Zoning Board of Adjustment did authorize Gregory Associates, LLC, Kathryn M. Gregory, PP, AICP, Principal Planner, City of Clifton, to prepare such report;

WHEREAS, Gregory Associates, LLC, Kathryn M. Gregory, PP, AICP, Principal Planner, did make her recommendations in Section 10.0 of the Annual Report for the calendar year 2015 which is attached hereto and made a part hereof; and

WHEREAS, the Clifton Zoning Board of Adjustment did review the Annual Report, and said Clifton Zoning Board of Adjustment concurs with the recommendations of Kathryn M. Gregory, PP, AICP, Principal Planner, City of Clifton, for zoning, ordinances, amendments, or revisions; and

NOW THEREFORE, BE IT RESOLVED that the Annual Report prepared by Gregory Associates, LLC, Kathryn M. Gregory, PP, AICP, Principal Planner, City of Clifton, be and the same are hereby adopted and that the report shall be forwarded to the Governing Body of the City of Clifton and Planning Board of the City of Clifton in accordance with N.J.S.A. 40:55D-70.1.

MOVED BY: COMR STEPHEN CHRISTOPHER.

SECONDED BY: COMR KEITH LA FORGIA.

AFFIRMED BY: COMRS LOUIS DE STEFANO, KEITH LA FORGIA, STEPHEN CHRISTOPHER, ROY NOONBURG, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

MEETING OF JANUARY 20, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: LUCY SPIEWAK
for premises known as: 301 Luddington Avenue, Block 19.12, Lot 2
be and the same is hereby: DENIED bulk variances for the construction of a rear, second story addition.

Testimony concerning the aforesaid application was taken by the Board at its meetings on December 2, 2015, and January 20, 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 variances for left side yard setback, combined side yards setback, storage area, storage structure, height of fence, and lot coverage for the construction of a rear second-story addition at premises located at 301 Luddington Avenue, Block 19.12, Lot 2, which premises are located in a RA3 zone; and

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

a. The applicant seeks variance approval for the construction of a second story addition with numerous violations at the site;

b. The applicant was given an opportunity to clean-up the site and prepare the appropriate plans for the construction of a rear second-story addition;

c. There was no action taken by the applicant to comply with the Board's recommendations;

d. The applicant has shown no hardship to justify the grant of the variances requested;

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

WHEREAS, the Board finds from the testimony presented that the applicant has failed to sustain the burden of proof to show 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 condition of the premises at the present time is detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for the construction of a rear second-story addition at premises located at 301 Luddington Avenue, Block 19.12, Lot 2, be and the same is hereby disapproved and the bulk variances requested be and the same are hereby denied.

Resolution moved by: Comr ROY NOONBURG.

Seconded by: Comr KEITH LA FORGIA.

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

MEETING OF JANUARY 20, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: H.A.A.L. (HOMELESS ANIMAL ADOPTION LEAGUE)
for premises known as: 236 Delawanna Avenue, Block 59.06, Lot 88
be and the same is hereby: GRANTED use variance to operate a facility for the adoption of cats.

Testimony concerning the aforesaid application was taken by the Board at its meeting on January 20, 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 Stephen Christopher moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval to operate a facility for the adoption of cats at premises located at 236 Delawanna Avenue, Block 59.06, Lot 88, which premises are located in a M-2 zone; and

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

a. The applicant requests approval to occupy the existing building, which was previously a bar and tavern, with a cat adoption facility;

b. A use variance is required since the premises are located in an M-2 general industrial zone;

c. The shape of the property is irregular with frontage along Delawanna Avenue and results in deficiencies in lot area, front yard setback, side yard setback, lot coverage, parking space size, parking in front yard, parking in side yard, and buffer strip;

d. The applicant has satisfied the positive and negative criteria required for the grant of a use variance since the planner has testified that the proposed use is particularly suited to the site;

e. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;

f. The benefits of the application outweigh the detriments;

g. The proposed use is less intense than the prior uses of the premises; 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 shall be beneficial to the surrounding area and will not be detrimental to the health, safety, and general welfare of the area;

NOW THEREFORE, BE IT RESOLVED that the application to operate a facility for the adoption of cats at premises located at 236 Delawanna Avenue, Block 59.06, Lot 88, be and the same is hereby approved and the use variance and bulk variances as set forth above be and the same are 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 APPLICANT ENCLOSE THE DUMPSTER WHICH WILL BE LOCATED IN THE REAR OF THE SITE.**

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 STEPHEN CHRISTOPHER.

Seconded by: Comr KEITH LA FORGIA.

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

MEETING OF JANUARY 20, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: UNIVERSAL SUPERMARKET
for premises known as: 550 Lexington Avenue, Block 7.07, Lot 1
be and the same is hereby: GRANTED a use variance, parking variance, building setback variance, and buffer as well as preliminary site plan approval for a retail supermarket.

Testimony concerning the aforesaid application was taken by the Board at its meeting on January 20, 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, Vice-Chrmn Gerard Scorziello moved to grant the use variance, bulk variances, and preliminary site plan approval on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval as aforesaid along with bulk variances for a retail supermarket at premises located at 550 Lexington Avenue, Block 7.07, Lot 1, which premises are located in a BC and RB2 zone; and

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

a. The applicant is requesting a use variance to use the existing building for a supermarket in addition to the current liquor store use;

b. The previous use at the site was a manufacturing use that was more intense and involved substantial truck traffic;

c. There is a need for a supermarket in the area;

d. The proposed use will not be detrimental to the public good and will be a benefit to the area and the City;

e. Based upon the testimony of the planner, the applicant has satisfied the positive and negative criteria required for the grant of a use variance;

f. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;

g. 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;

(CONTINUED)

(CONTINUED)

NOW THEREFORE, BE IT RESOLVED that the application to occupy a portion of the existing building at premises located at 550 Lexington Avenue, Block 7.07, Lot 1, with a retail supermarket be and the same is hereby approved and the bulk variances for rear yard setback, side yard setback, lot coverage, parking space size, number of parking spaces, parking in the front yard, parking in the side yard, and access to the parking area be and the same are hereby granted and preliminary site plan approval is granted subject to such further governmental approvals as may be required by law

AND SUBJECT TO THE FOLLOWING:

1. THE APPLICANT COMPLY WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF NEGLIA ENGINEERING ASSOCIATES DATED JANUARY 5, 2016;
2. THAT DELIVERIES WILL BE MADE TO THE SITE FROM SEGER AVENUE AND DELIVERIES WILL BE SCATTERED BETWEEN THE HOURS OF 9 A.M. AND 1 P.M. WITH NO TRUCKS STACKED AT THE PREMISES;
3. THE APPLICANT ERECT A 6-FOOT-HIGH FENCE AND SHRUBBERY ALONG THE PROPERTY LINE BORDERING THE NEXT DOOR RESIDENTIAL PREMISES;
4. SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL.

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 VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr ROY NOONBURG.

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

MEETING OF JANUARY 20, 2016.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: AVI & DEBORAH UNGER
for premises known as: 38 Alvin Court, Block 57.04, Lot 10
be and the same is hereby: GRANTED variances for an addition and alterations.

Testimony concerning the aforesaid application was taken by the Board at its meeting on January 20, 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 Keith LaForgia moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval to enclose a portion of an existing deck and extend the deck at premises located at 38 Alvin Court, Block 57.04, Lot 10, which premises are located in a RA3 zone; and

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

a. The applicant was previously granted a variance for a rear yard deck on January 21, 2015;

b. The applicant proposes to enclose a portion of this deck to create a playroom/dining area and extend the deck an additional 4.1 feet;

c. The rear yard setback requirement is 35 feet, and the applicant is proposing 24.4 feet;

d. The lot coverage requirement is 27 percent, and the applicant is proposing 34.17 percent;

e. The left side yard setback requirement is 6 feet, and the applicant is proposing 5 feet;

f. Based upon the testimony of the architect, the applicant has shown sufficient hardship to justify the grant of the variances requested;

g. The benefits of the application outweigh the detriments; 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 structure will remain a one-family dwelling; and

WHEREAS, the Board further finds that there is no testimony presented to show that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood since the rear of the premises abuts a park;

NOW THEREFORE, BE IT RESOLVED that the application for an addition and alterations at premises located at 38 Alvin Court, Block 57.04, Lot 10, be and the same is hereby approved and the variances for enclosure of a portion of the deck and extension of the deck by 4.1 feet, rear yard setback variance, lot coverage variance, and left side yard setback variance be and the same are 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 KEITH LA FORGIA.

Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.

Affirmed by: Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.