

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 3, 2018. 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 SCOTT SOCHON, MICHAEL MOLNER, DANIEL TRENK, LOUIS DE STEFANO, KEITH LA FORGIA, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

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 George Foukas, the Minutes of the December 20, 2017, regular meeting were adopted with the unanimous approval of the entire Board.

REORGANIZATION MEETING

At the reorganization meeting conducted by the Board, Comr Louis

DeStefano nominated Comr Mark Zecchino for the position of Chairman. The motion was seconded by Comr Gerard Scorziello. There were no other nominations. Chrmn Zecchino accepted the nomination, and he was unanimously elected as Chairman of the Zoning Board of Adjustment for the calendar year 2018 for a one-year term.

For the position of Vice-Chairman, Comr Roy Noonburg nominated Comr Gerard Scorziello. The motion was seconded by Comr George Foukas. There were no other nominations for the position. Vice-Chrmn Scorziello accepted the nomination, and he was unanimously elected as Vice-Chairman of the Zoning Board of Adjustment for the calendar year 2018 for a one-year term.

CONTINUED HEARINGS

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| 1. | CLIFTON CHICKEN LLC d/b/a POPEYE'S |
| Use | LOUISIANA KITCHEN, 6 Main Avenue, |
| Variance; | Block 82.06, Lot 15 – P-MU – Use variance |
| Variances;relief | pursuant to N.J.S.A. 40:55D-70d, |
| Site Plan | bulk variance relief pursuant to N.J.S.A. |
| | 40:55D-70c and site plan approval. |

The property is presently developed with a one-story commercial structure (currently unoccupied, previously utilized as a bank with drive-thru lanes) and accessory paved/parking areas.

Per Chapter 461 of the City of Clifton Zoning Ordinance, restaurants with drive-through facilities or counter service is not a permitted use in the zone.

The Applicant proposes to improve the property and utilize the existing structure as a dine-in and drive-thru restaurant. Accessory improvements (inclusive of façade improvements, site lighting, installation of exterior business signage, shrubs/planted areas, fencing repair, and parking area striping) are also proposed.

The applicant seeks the following variance relief from the Board:
use variance relief for the proposed restaurant and its associated drive-thru use, business signage/memo boards (use not permitted in zone); and bulk variance relief for the proposed front yard setback along Main Avenue (29.1' proposed, 35' required); improved lot coverage (77% proposed, 75% permitted); open space (23% proposed, 25% minimum required); parking setback in corner/side yard (1' proposed, 10' required); and parking setback in rear (2.4' proposed, 5' required). The applicant will also seek any additional variances, waivers, interpretation or relief that may be required by the Board at the time of the public hearing.

This matter was previously continued by the Board until the January 17, 2018, meeting of the Board.

2.	CARLOS SUAREZ & NELY ALTAMIRANO,
Use	42 Paterson Avenue, Block 82.02, Lot 64
Variance	-- RA3 – Applicant proposes a rear addition on to an existing nonconforming two-family home. A use variance is required for the expansion of a nonconforming use. A new detached garage is also proposed at 440 sq. ft. where a maximum of 300 sq. ft. is permitted.

Jennifer M. Carrillo-Perez, Esq., of the firm of Connell Foley, 185 Hudson Street, Jersey City, New Jersey, appeared on behalf of the applicant. Kenneth Porro, Esq., of the firm Chasan, Lamparello, Mallon & Cappuzzo, 300 Lighting Way, Secaucus, New Jersey, appeared on behalf of objector, Mr. Martin Carluccio, 46 Paterson Avenue, Clifton, NJ, who was present and sworn. Present and sworn on behalf of the applicant were the following: Carlos Suarez and Nely Altamirano, residing at 42 Paterson Avenue, Clifton, New Jersey; Matthew A. Roma of 877 Broad Street, Newark, New Jersey, an architect; Sandra Sung of 100 Warren Street, Jersey City, New Jersey, a planner.

Ms. Carrillo-Perez stated that the applicant proposes a rear addition on an existing, non-conforming two-family home which requires a use variance; that a new detached garage is also proposed at 440 square feet where a maximum 300 square feet is permitted.

Marked into evidence was “A-1” a dwelling certificate issued by the City of Clifton; Zoning Officer Daniel Howell stated that he reviewed the records to determe

the status of the property, and it appears that the tax office had a notation that in February of 1963, the structure was labeled a two-family dwelling.

Mr. Roma testified as an architect, explaining that the applicant will remove the patio from the ground floor; that the size of the first floor will be doubled; that there is an existing garage at the rear of the premises which will remain; that the structure will remain a two-family dwelling.

Sandra Sung testified as a planner and described the premises and the area in question; that the applicant's lot is 13,500 square feet which can accommodate the addition; that in her opinion, the applicant satisfies the positive and negative criteria; that the proposed expansion and addition will not be detrimental to the health, safety, and general welfare of the neighborhood.

Nely Altamirano testified that the purpose of the expansion is to accommodate more space for the family; that she has a son who suffers from epilepsy and a bedroom will be for him on the same floor; that the family needs the income from the two-family; that she would agree to have the existing old garage removed from the premises.

Mr. Porro, on behalf of his client, offered into evidence which was marked "O-1" a photograph of the client's rear yard for the purpose of indicating that the privacy of his client will be eliminated if the addition is added.

At this point in the hearing, Chrmn Zecchino stated that the applicant is seeking a use variance for a non-conforming use where the applicant is doubling the size of the proposed addition; that the Board will be required to hear testimony from the objector.

At this point in the hearing, the matter was continued until the March 21, 2018, meeting of the Board with the suggestion that the applicant review the comments made by the Commissioners concerning the size of the proposed addition. The attorney for the applicant waived the time period within which the Board is required to render a decision.

3.	UNITED AMERICAN MUSLIM
Use	ASSOCIATION INC., 492 Clifton
Variance;	Avenue, Block 12.01, Lot 24
Variances	-- B-C -- Applicant seeks to eliminate one apartment and create a study area for cultural and enrichment programs for young students: 1) Conditional use variance required (lot and building do not meet conditional use requirements. 2) Use variance required for mixed use building (residential on second floor) accessory use 3) Bulk variances for existing conditions including a) parking within front yard setback; b) parking isles deficient; c) parking within rear yard setback; d) parking stalls deficient in size. 4) Such other variances as may be required.

This matter was previously continued by the Board to the January 17, 2018, meeting of the Board.

4.	E CUBE 240 LLC & AMERICAN
Use	ANALYTICAL ASSOCIATION, LLC,
Variances;	247/245 Parker Avenue, Block 4.16,
Variances	Lot 33/31 – PD-1 – Applicant proposes to renovate and build additions to the existing applicant store and Bank building to create a four story mixed use property. Applicant also proposes to merge lots 31 and 33. Building will consist of 3 retail stores on the first floor and 29 apartments. The following variances are required:

- 1) Use variances required for mixed use and residential in a PD-1 Zone.
- 2) Rear yard setback proposed at 0' where 10' is required.
- 3) Lot coverage proposed at 100% where 90 is permitted.
- 4) Building height proposed at 40'7" where 30' is permitted.
- 5) 4 stories proposed where 2 stories are permitted.
- 6) Such other variances as may be required.

This matter was previously continued until the February 7, 2018, meeting of the Board.

5.	299 ROUTE 3 EAST, LLC, 299 Route 3 East,
Use	Block 83.01, Lot 2.01 – M-3 or P-MU option –
Variance	A use variance to permit two (2) principal uses on the same lot being the existing gas station and conversion of the existing automobile service building into a coffee shop.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Hal Simoff of 2 Shunpike Road, Madison, New Jersey, a traffic expert; and Hoosam Sorour of 527 Country Club Road, Bridgewater, New Jersey, representative of Dunkin Donuts.

This is a continued hearing from the November 15, 2017, meeting of the Board.

Mr. Simoff testified as a traffic expert and referred to the Institution of Transportation Engineers Manual concerning the amount of traffic that will enter and exit the premises; that 30 cars are proposed to enter and 30 exit at the maximum point; that a total of 100 cars will be entering the morning peak hour; that based

upon the numbers he reviewed, the potential impact of cars is inconsequential; that the applicant will be required to provide information concerning an access permit issued by the New Jersey Department of Transportation to the site; that the applicant should provide further testimony as to the shared access to the LaQuinta Hotel adjacent to the site; that the information provided by the New Jersey Department of Transportation will be required before a decision is made.

Brian Intindola of Neglia Engineering, the Board's consulting engineer, stated that the New Jersey Department of Transportation must comment on the capacity, the access, and the level of service to the site.

Hoosam Sorour testified that he is a representative of Dunkin Donuts which will lease the site if approved from the owner; that the hours of operation are from 5 A.M. to 11 P.M., seven days a week; that Dunkin Donuts has three service areas in Clifton; that the maximum number of employees is 15; that there will be no drive-thru facility; that Clifton is a desirable City which attracts the Dunkin Donuts establishments; that the busiest hours are from 7 A.M. to 9 A.M.; that it will not be a 24-hour operation; that there is an average of 2,000 customers a week; that 50% of the business is from 5 A.M. until Noon.

At this point in the hearing, Chrmn Mark Zecchino stated that the applicant will be required to submit the proposal to the New Jersey Department of Transportation which must make comments concerning access to and exit from the site.

Mr. Carlet, on behalf of the applicant, waived the time period within which the Board is required to render a decision.

Thereupon, the matter was continued by the Board until the March 31, 2018, meeting.

NEW HEARINGS

1.	326 PARKER AVENUE HOLDINGS LLC
Use	326 Parker Avenue, Block 4.05, Lot 1
Variance;	-- B-C – Property is currently a vacant
Variances	funeral home with two apartments; Applicant seeks to have apartments remain and utilize balance of property for management offices. A variance is needed for continuing an existing, non-conforming mix use, as well as existing, non-conforming bulk variance. There is also a variance needed for parking. 29 spaces are required and 8 spaces shown on the plans.

Thomas P. DeVita, Esq., with offices at 432 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Frank D. Mileto of 14 Beaver Brook Drive, Long Valley, New Jersey; Levi Kelman of 326 Parker Avenue, Clifton, New Jersey; and William Stimmel, a civil engineer, with offices in 335 Post Avenue, Lyndhurst, New Jersey.

Mr. DeVita stated that the premises in question is currently a vacant funeral home with two apartments; that the applicant requests approval to have the two apartments remain and utilize the balance of the property for management offices; that a variance is needed for continuing an existing, non-conforming use as well as an existing, non-conforming bulk variance; that the applicant is seeking a parking variance where 29 spaces are required and only 8 spaces are provided.

Levi Kelman, the managing director of the applicant, testified that there will be no changes to the premises; that he conducts a property management business which does not require any customers to come to the offices; that there are 8 parking spaces proposed where 33 are required.

Offered into evidence which was marked "A-1" is a communication from Sacred Heart Church dated December 13, 2017, agreeing to provide 20 parking spaces to the applicant.

Mr. Stimmel testified as a traffic engineer and stated that although 33 parking spaces are required, the applicant has eight spaces and the Church has agreed to agree to allow 20 spaces; that the office and the residences are complementary uses; that in his opinion, there will be no adverse consequences resulting from the granting of the application; that the area in question consists of mixed uses.

Frank D. Mileto testified as an architect and planner and stated that the proposal is a non-conforming use which is less intense than the funeral home; that most of the work done by the applicant is off site on properties being managed; that only employees will be at the site; that the applicant proposes to upgrade the premises; that the property is unique due to its irregular shape; that in his opinion, there will be no detriment to the neighborhood; that as far as the negative criteria, there will be no noise or odor or pollution resulting from the use of the premises; that the proposal will not impair the zone plan and zone ordinance; that there are a number of mixed uses containing offices and residences in the neighborhood; that the office is a permitted use and the residence is not a permitted use, however, the residences have become a non-conforming use.

After a review of the testimony, Comr George Foukas moved to grant the application, citing the fact that the premises is currently vacant and should be occupied, and he further instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Roy Noonburg, 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.	YESHIVA KTANA OF PASSAIC, INC.
Variances	288, 292, 296, 300 & 304 South Parkway, Block 59.01, Lots 8, 11, 13, 15 & 17 -- RB2 – Preliminary and Final Site Plan Approval with associated conditional and/or use variance and other related waiver and variance relief, property approximately 0.745 acres improved with 5 residential dwellings, 4 of which are owned by the applicant and 1 of which is under contract of sale with the applicant. The Applicant seeks to demolish the homes and construct and utilize a parking area consisting 73 spaces, together with associated landscaping, fencing and other site enhancements, all to be accessory to the Applicant's inherently beneficial religious and educational school facility, which is located in the City of Passaic and which is adjacent to the Property. All vehicular ingress and egress is proposed to be through the Applicant's property in Passaic, other than a 20' "clear" opening gate solely for emergency access from South Parkway (southwestern corner of property) for use by emergency personnel as requested by the Clifton Fire Department. Certain other plan amendments have been made at the request of the Fire Department, including but not limited to installation of a new hydrant on school property, addition of a 4' wide swing gate in the southeastern corner of the property for emergency responder access (non-vehicular), provision for Knox padlocks for Fire Department perimeter area access and

creation/labeling of “fire lane – no parking” areas.

The Applicant requests relief from the following Code provisions for the accessory parking:

(1) §461-47A(1) – fence along front and side property lines to rear of main structure to be no more than 4’ height and to be 50% open – proposed: fence 6’ height board-on-board construction with 50% open along side (no building on Property);

(2) §461-47A(2) – fence erected along the side lines from the rear line of the main structure to the rear property line and along said rear property line shall not exceed 5’ and may be solid or in the nature of stockade or basket weave construction – proposed: 6’ board-on-board fence with 50% open space proposed along side property lines;

(3) §461-60(E) – no parking to be located within front yard – proposed: parking within front yard setback;

(4) §461-60(F) – no parking to be located within 10’ of rear line – proposed: parking within rear yard setback;

(5) §461-60(J) – no parking or standing of automobiles within front, rear or side yards in residential districts – proposed: parking within front yard setback;

(6) §461-60(N) – parking lot in excess of 10,000 sf to provide interior landscaping (20 sf/space)- proposed: no interior landscaping but significant side and front perimeter buffer;

(7) §461-29; §461-27A – minimum lot size 1 acre for conditional school use –

proposed: minimum lot size 34.456 sf in Clifton
(compliant with split municipal boundary
consideration);

(8) §461-29; §461-27-A – minimum lot depth 150' –
proposed: minimum lot depth 118.03' in Clifton
(compliant with split municipal boundary
consideration).

In addition to the foregoing described relief,
the Applicant will also seek approval for any and
all variances, exceptions, waivers, and other
incidental relief that may be required or deemed
necessary by the Board after or during its review
of this Application, together with any further
relief that may be deemed necessary by the
Applicant during the hearing process, including
that which may be generated by way of revised
plans and submission of same. Measurements,
percentages and other calculations provided in
this notice are in accordance with the
development plans filed with the Application.
Please note that to the extent plan and/or
Application revisions are made during the hearing
process, these measurements, percentages and
other calculations will likely change, as may the
associated relief required per the City Code.
The Applicant reserves the right to amend its
application accordingly.

At the request of the attorney for the applicant, this matter was continued by the
Board with no date, with an extension of time within which the Board is required to
render a decision given to the April 18, 2018, meeting.

RESOLUTIONS

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

1. Upon motion made by Comr Louis DeStefano, seconded by Comr Daniel Trenk, and affirmed by Comrs Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ISAAC FELICIANO for maximum square footage, distance of roof to house, and distance of garage and roof to right side lot line variances to extend the front of the detached garage roof to create a carport area at 103 Harding Avenue, Block 12.03, Lot 2, was adopted.

2. Upon motion made by Comr Daniel Trenk, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of KAITLYN PIRRELLO for left side yard and rear yard setback variances to erect a rear yard deck at 226 Edison Street, Block 26.02, Lot 20, was adopted.

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Chrmn Zecchino announced that the Board will hold a special meeting on January 24, 2018.

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF JANUARY 3, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: 326 PARKER AVENUE HOLDINGS LLC
for premises known as: 326 Parker Avenue, Block 4.05, Lot 1
be and the same is hereby: GRANTED use variance, bulk variances, and parking variance for two uses of apartments and a management office.

Testimony concerning the aforesaid application was taken by the Board at its meeting on January 3, 2018. 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 use variance approval to have apartments and offices for a management company at premises located at 326 Parker Avenue, Block 4.05, 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 planner and traffic engineer, has made the following factual findings:

- a. The premises presently consists of two residential apartments and a vacant first floor which was formerly a funeral home;
- b. The applicant proposes to retain the two residences and utilize the balance of the property for management offices;
- c. Based upon the testimony of the applicant's planner, the proposal satisfies the positive and negative criteria and is a less intense use than the previous funeral home use;
- d. Based upon the testimony of the applicant's traffic expert, there is sufficient parking at the site, plus the additional space provided by Sacred Heart Church which makes the issue of parking inconsequential;
- e. The neighborhood consists of mixed uses, many of which have residential and commercial;
- f. The applicant has shown sufficient hardship to justify the grant of the bulk variances required; 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 a vacant piece of property will now be utilized in a similar manner as the other uses in

the neighborhood; and

WHEREAS, the Board further finds that there is adequate parking at the site, and the proposal will not be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for two apartments and a property management office at premises located at 326 Parker Avenue, Block 4.05, Lot 1, be and the same is hereby approved and the use variance, bulk variance, and parking 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. THE ZONING BOARD SHALL RETAIN JURISDICTION TO RECONSIDER, REVISE, MODIFY, ADD, AND VARY THE TERMS OF ANY CONDITIONS HEREIN IMPOSED UPON ANY USE VARIANCE, VARIANCES, AND/OR SITE PLAN GRANTED HEREIN.

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 KEITH LA FORGIA.

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