

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 17, 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, LOUIS DE STEFANO, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMRS KEITH LA FORGIA AND DANIEL TRENK.

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 Vice-Chrmn Gerard Scorziello, the Minutes of the January 17, 2018, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

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.

Lawrence A. Calli, Esq., with offices at 3 Briarcliff Terrace, Kinnelon, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant was Frank D. Mileto, 14 Beaver Brook Road, Long Valley, New Jersey, architect and planner.

Appearing on behalf of objectors was Frank Fusco, Esq., 15 Princeton Street, Clifton, New Jersey. Present were the following objectors, some of whom were sworn to give testimony: Frank Fusco; Mary Sadrakula, 340 Dwasline Rd., Clifton, NJ 07012; Richard Leonardis; Gladys Shefchik, 38 Hall St., Clifton, NJ; Phyllis Sibello, 80 Princeton St., Clifton; and Bernard Fevrier, 10 Austin Pl., Clifton, NJ.

This is a continued hearing from the meetings of May 17, 2017, July 19, 2017, and November 1, 2017.

Mr. Calli recapped the testimony from the prior meetings from May, July, and November and emphasized the major change which is the removal of the drive-thru component.

Mr. Mileto testified in his capacity as an architect and stated that the application was for the conversion of a former bank to a restaurant; he described the proposed new building, the interior aspects, the exterior facade, and the improvements to the building; that the building will not be enlarged in size; that there are no additions to the building; that there are decorative awnings; there are no changes to the height and width; that the building will be a mustard color, stucco with stone base and red trim, the same as all other Popeye's; that the building will consist of 44 seats with

two barrier-free bathrooms; that 60% of the building is for the cooking component; that 30 to 40% of the building is for seating.

Three exhibits were introduced into evidence:

“A-4” floor plan of the proposed restaurant;

“A-5” elevations of the building front and rear as proposed;

“A-6” color rendering of the proposed building exterior.

Objector Mary Sadrakula inquired why the architect of record was not present and why Mr. Mileto was testifying as he did not prepare the plans personally. Mr. Calli stated that there were standard blueprints for all types of Popeye’s in accordance with franchise requirements. Upon advice of Counsel Pogorelec, Chrmn Zecchino continued with the proceedings.

Objector Sadrakula inquired why the kitchen area was 60%. Mr. Mileto responded it is the standard according to blueprints for Popeye’s nationwide.

Mr. Fusco inquired if the plan conformed to code compliance for people with disabilities. Mr. Mileto responded in the affirmative.

Comr Noonburg inquired whether the size of the building would change. Mr. Mileto responded in the negative.

Comr Noonburg inquired if any repairs are being made to the building now. Mr. Mileto responded in the negative.

Vice-Chrmn Scorziello inquired if there was extra seating added since the drive-thru was eliminated. Mr. Mileto responded in the negative.

Objector Richard Leonardis requested a breakdown of how the 44 seats are designed. Mr. Mileto gave a description of the internal layout of the building and how the tables were set.

Mr. Fusco inquired if there were any changes to the design of the roof proposed. Mr. Mileto responded in the negative.

Mr. Mileto continued to testify in his capacity as planning expert; that the M-2 zone has multiple permitted uses, none of which are better suited for the location than a fast food restaurant such as Popeye's; that the reason why a use variance is present in this application is because the business will provide counter service, and that is what triggered the need for a use variance; that with respect to site suitability, Popeye's will draw a different crowd than Wendy's or other similar establishments; that the clientele will mostly come from the individuals who normally travel on Main Avenue; that the restaurant will provide a service to the community and the businesses surrounding it; that there are no negative impacts on surrounding buildings or the neighborhood and further no substantial detriment to the zone plan and zone ordinance and public good.

Chrmn Zecchino requested Mr. Mileto to elaborate regarding special reasons. Mr. Mileto testified that the purposes of good planning are being advanced; that the application is an improved visual environment at the property as opposed to its current state; that the site is particularly suited for the proposed use with state of the art equipment; that it is a less intensive use than an industrial zone usually entails. For example, heavy trucking and loading would be more of a detriment to the community than a restaurant such as Popeye's.

The Board members inquired whether the elimination of the drive-thru would make the proposed use less onerous than keeping the drive-thru component. Mr. Mileto stated that it would result in less business to the applicant, but negative impacts—such as, queuing and parking deficiencies—would be minimized.

Mr. Fusco inquired if the elimination of the drive-thru would bring more people into the restaurant to dine in. Mr. Mileto could not answer management questions, he could not predict same.

Objector Bernard Fevrier inquired how the building could be particularly suited for the area when seven variances are being requested. Mr. Mileto responded that the use is better suited than most of the permitted uses in the zone.

At this point in the hearing, Chrmn Zecchino continued the matter to the March 7, 2018, meeting, and requested that the civil engineer and traffic engineer be brought back at the next meeting to address the updated Neglia Engineering Associates report dated January 5, 2018, and the report of the Clifton Fire Department dated January 9, 2018. The Board acknowledged that a Police Department report was previously requested at the November 1, 2017, meeting and still has not been received.

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.

This matter was previously continued to the March 21, 2018, meeting of the Board.

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.

At the request of the attorney for the applicant, this matter was continued to the March 21, 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.

This matter was previously continued until the March 21, 2018, meeting of the Board.

6.	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.

This matter was previously continued by the Board without date, with an extension of time within which the Board is required to render a decision given to the April 18, 2018, meeting date.

NEW HEARINGS

1.

Variance

DANIEL SCHIMEL & NICOLE KATZ,
44 Annabelle Avenue, Block 71.02, Lot 11
-- RA3 – Applicant proposes to enlarge the existing family room by reducing the area within the attached garage. Variance required for a driveway in front of the home not serving a garage.

The applicants, residing at 44 Annabelle Avenue, Clifton, New Jersey, were present and affirmed. Present and sworn was objector Mary Sadrakula, 340 Dwasline Rd., Clifton, NJ 07012.

Mr. Schimel testified that they are requesting a variance for a driveway in front of the home not serving a garage; that they request approval to convert the back half of

the garage into living space, to be an addition to the family room; that this will leave 10 ½ feet of garage space in the front half of the garage and 10 ½ feet to be allocated to the new family room; that the front the garage will remain and the front appearance of the house will not change; that there is a double width driveway to accommodate parking for two cars.

Comr Noonburg inquired if the house was being enlarged. The applicant responded in the negative.

Comr Foukas inquired how long the applicants have lived at the property. The applicant responded 8 years.

Objector Mary Sadrakula stated that the applicant previously appeared before the Board on May 17, 2017, which application was approved; that this an attempt by the applicant to obtain a second "bite of the apple;" that the application should be denied because no hardship was demonstrated.

After a review of the testimony, Comr Roy Noonburg moved to deny the application. The motion was seconded by Comr George Foukas. Voting for denial were Comrs Louis DeStefano, George Foukas, Roy Noonburg. Voting against denial were Comrs Scott Sochon, Michael Molner, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a three to four vote, the motion failed.

Vice-Chrmn Gerard Scorziello moved to grant the application with the stipulation that bollards be installed in the wall between the family room and the garage and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr Michael Molner. Voting to approve were Comrs Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting against approval were Comrs George Foukas and Roy Noonburg. 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.

2. **UNIFOOD LLC, 364 East First Street,**
Variances **Block 5.02, Lot 12 – M-2 – Applicant is a**
company that processes cheese. The
property is located within the M-2 Zone
and will be totally renovated. Applicant
proposes a 492 sq.ft. addition in the
front of the building and a 790 sq.ft.
addition to the rear of the building. The
following variances are requested:
- 1) Rear yard proposed at .38' where 15'
is required.
 - 2) Building lot coverage proposed at 64.8%
where a maximum of 60% is permitted.
 - 3) Right side yard proposed at 11.8' where
15' is required.
 - 4) Left side yard at addition proposed at 5.1'
where 15' is required, extending existing
building wall.
 - 5) Existing nonconforming lot area and width.

At the request of the attorney for the applicant, this matter was continued to the February 7, 2018, meeting of the Board.

3.	RICHFIELD MEWS, LLC, 1187 Van Houten
Subdivision	Avenue, Block 40.05, Lot 1 – B-B & RA3 –
Use	Subdivision of the property commonly known
Variance;	as RICHFIELD FARMS into two (2) lots with
Variances	one lot fronting on Van Houten Avenue and
	having a size of 91.990 square feet being
	known as Lot 1.01 having lot dimensions of
	Front 438.59', Rear 431.31', Right Side 39.2'
	and Left Side 208.6'. The second lot is to be
	fronting on Doremus Avenue and is to be
	known as Lot 1.02 having a size of 112,796
	square feet, a Front Yard of 289.89', Rear Yard
	294.99", Right Side 411.29' and Left Side
	356.99'. In addition, a use variance is
	required to permit construction of thirty-six
	(36) townhouses on proposed Lot 1.02
	requiring the following bulk variances:
	-minimum lot area per dwelling unit
	(5,000 square feet required, 3,233 square
	feet proposed), -maximum lot coverage
	(27% permitted, 52.5% proposed for
	Lot 1.02 and 50.4% proposed for Lot 1.01),
	-maximum building height (2 stories/30
	feet permitted, 3 stories/31.92 feet proposed),
	-rear yard setback (40 feet required, 38.5
	feet proposed).

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Peter Steck, planning consultant, of 80 Maplewood Avenue, Maplewood, New Jersey; David Fantina of Fantina Engineering, 15 Sunset Drive, Bernardsville, New Jersey; Laurance Appel of Appel Design Group, PA, architect, of 220 South Orange Avenue, Suite 100, Livingston, New Jersey; and Deborah Morton, property owner of Richfield Farms, 5 Rabkin Drive, Clifton, New Jersey.

Present were the following objectors, some of whom were sworn to give testimony: Jessica Byrne, 48 Addison Ave, Rutherford, NJ 07070; William Morton, 608 Highland Ave., Little Falls, NJ 07424; Jack Morton, 5 Rabkin Dr., Clifton 07013; Roy Stesko, 1118 Van Houten Av., Clifton, NJ 07013; Mary Sadrakula, 340 Dwasline Rd., Clifton, NJ 07012; Robert, Donna & Faith Popowich, 57 Dalewood Rd., Clifton, NJ 07013; Gary & Maureen Brown, 41 Larkspur Lane, Clifton, NJ 07013; Virginia Komar, 73 Village Rd., Clifton, NJ 07013; George Kuch, 14 Urma Ave., Clifton, NJ 07013; June Sudol, 67 Village Rd., Clifton, NJ 07013; Elisabeth Burghoffer & Stephen Burghoffer, 61 Urma Ave., Clifton, NJ 07013; Anne & Michael Smith, 34 Urma Ave., Clifton, NJ 07013; Linda & Doug DiFalco, 28 Urma Ave., Clifton, NJ 07013; Steve & Betsy Klos, 80 Greendale Rd., Clifton, NJ 07013; Michael & Nadira Webster, 6 Urma Ave., Clifton, NJ 07013; Michael & Dana Bazo, 60 Urma Ave., Clifton, NJ 07013; Christopher & Danielle Barlow, 3 Kruger Ct., Clifton, NJ 07013; Tibor & Barbara Kiraly, 57 Pershing Road, Clifton, NJ 07013; Joyce Allan, 462 Mt. Prospect Ave., Clifton, NJ 07012; Linda Attenello, 80 Larkspur Lane, Clifton, NJ 07013; Eileen Clifford, S.C., 26 Urma Ave., Clifton, NJ 07013; Maryanne Campeotto, S.C., 26 Urma Ave., Clifton, NJ 07013; Nancy Castronovo, 52 Greendale Rd., Clifton, NJ 07013; Gail & Robert Stolarz, 154 Pershing Rd., Clifton, NJ 07013; Robert Dueben, 30 Larkspur La., Clifton, NJ 07013; Paul Layng, 14 Kathryn St., Clifton, NJ 07013; Mary Flynn, 14 Breen Court, Clifton, 07013; John Neglia, 9 Glenwood Street, Clifton, NJ 07013; Caitlin White, 88 Vincent Dr., Clifton, NJ 07013; Henry Cholewczynski, Phyllis Pl, Clifton; Kelly McDermott, Edgewood Ave., Clifton; Justine Paitchel, 117 Bender Dr., Clifton, NJ; Michael Paitchel, 117 Bender Dr., Clifton, NJ; Vera Lazar, 22 Spencer Ave., Clifton, NJ 07013; Ann Schnakenberg, 268 Washington Ave., Clifton, NJ 07011; Kurt Schnakenberg, 268 Washington Ave., Clifton; Judith Bassford, 92 Mountainview Dr., Clifton, NJ 07013; Roy Robertello, 66 Woodlawn Ave., Clifton, NJ 07013; Judy Gergats, 44 Rosedale Ave., Clifton, NJ 07013; Jennifer Torres, 48 Rosedale Ave., Clifton, NJ 07013; Gina Scaduto, 44 Springdale Ct., Clifton, NJ 07013; Gabriella & Robert Marriello, 8 Springdale Court, Clifton, NJ 07013; Jonathan Sampson, 44 Urma Ave., Clifton, NJ 07013; Julio Vazquez, 63 Doremus Place, Clifton, NJ 07013; Mark & Shirley Winkler, 35 Urma Avenue, Clifton, NJ 07013; Joanna & Marcin Ferenc, 38 Urma Ave., Clifton, NJ 07013; Daniel Williams, 15 Urma Ave. corner of Doremus/Uurma, Clifton, NJ 07013; Moneer Salman, 95 Pilgrim Drive, Clifton, NJ 07013; Eloina Sanchez, 3 Clair St., Clifton, NJ 07013; Mo Salman, 15 Priscilla St.,

Clifton, NJ 07013; Manharkumar Desai and Khushi Patel, 81 Village Rd., Clifton, NJ 07013. . (The objector's names and addresses are typed as hand-written.)

Mr. Carlet gave an overview, stating this is a use variance application, and the applicant has sufficient proofs to satisfy the positive criteria and negative criteria; one of the purposes of zoning is to promote the conservation of historic sites and districts; that Richfield Farms is a historic site; that due to severe economic conditions, the owner cannot continue operating the farm because the increasing costs of labor, materials, equipment, and taxes are taking them down; the applicant's intention is to sell off part of the land while keeping the farm stand operating.

Deborah Morton testified that the original farm stand was constructed in 1917 when her great-grandfather built the farm stand for his granddaughter; the original farm stand was built where the Parkway is now; then the farm stand was moved to the current location at 1187 Van Houten Avenue after the State took the property to construct the Parkway; the farm stand was moved to its current location.

Mr. Carlet offered the following photographs into evidence:

"A-1" the original farm stand built in 1917;

"A-2" outside of farm stand (where Parkway is now) during Summer months;

"A-3" outside of farm stand (where Parkway is now) during Winter months;

"A-4" new location of farm stand (to its present location) in 1954;

"A-5" the farm stand in the current location now with the house;

"A-6" picture in 1994 when the farm stand was remodeled; the owner had built a façade above and in front of the farm stand;

"A-7" – "A-10" pictures of the construction of the new façade that exists now over the top of the farm stand.

Ms. Morton further testified that she has no choice but to sell the back part of the property; it is the only way to keep the Richfield Farms farm stand viable for her children and grandchildren; she indicated that she has accumulated a great deal of debt and taxes, and the equipment is old and needs to be replaced; she wants to continue operating the Richfield Farms farm stand, but she just needs to downsize to make the business more viable; last year, Richfield Farms celebrated its 100 year anniversary, and she would like to continue in existence for another 100 years; the farm aspect will be given up as a result of the application; she intends to keep some of the greenhouses to grow seedlings and sell flowers and shrubs; she needs to modernize the greenhouses and reinvest in the business. Ms. Morton indicated that this is the oldest farm in Clifton other than Ploch's Farm. Lastly, she testified about the farmland assessment; because the property is less than 5 acres, i.e. 4.75 acres, she has not been eligible to receive the farmland assessment and is therefore regularly charged the tax bills as opposed to receiving a reduction in taxes.

Chrmn Zecchino inquired if the applicant was going to develop the property or is it going to be sold to a developer. Ms. Morton indicated that they are selling the property, and there is a new developer that would be involved after the sale.

Chrmn Zecchino inquired about the application to construct the cell tower which was heard by the Board in the past, he wanted to know if that helped the economic situation. Ms. Morton responded that she thought it would take care of the financial problems when the application was granted, but unfortunately, it was not enough to keep the business sustainable.

Comr DeStefano requested the applicant to explain how the developer became involved. Ms. Morton responded that the developer approached her several years ago and wanted to buy the whole property; that the view of the family was adamant against selling, but then after numerous requests from the developer, the family changed its mind and decided to sell the back part of the property so that Richfield Farms could still be viable and the greenhouses active.

Comr DeStefano inquired what the seasonal operations were of the business. Ms. Morton responded that the business is open March 1st every year and closes December

25th; during the Winter months, several managers do come in and check on everything, so it is an all-year-round operation.

Objector Mary Sadrakula inquired whether the testimony concerning financial hardship should be considered by this Board in rendering a decision. Chrmn Zecchino stated that financial hardship is not a part of the Board's decision when considering an application.

Objector Sadrakula inquired if there is a written contract for the sale. Ms. Morton responded in the affirmative.

Objector Sadrakula requested the name of the buyer. Ms. Morton responded that the developer is Jeff Rosenblum.

Objector Sadrakula inquired if anyone from the City ever approached the applicant to buy the property for open space purposes. Ms. Morton responded in the negative.

Objector Jonathan Sampson wanted clarification if the Board was approving a right to sell or a right to obtain a use variance. Chrmn Zecchino explained that the application before the Board was for use variance, subdivision approval, and variance approval; that the property is located in the B-B business zone and the RA3 residential zone, is more or less rectangular in shape, with frontage along Van Houten Avenue and access from Doremus Avenue; that the applicant proposes to subdivide the existing property and construct a townhouse development consisting of 35 units along with 90 parking spaces, inclusive of 35 garage spaces, on the rear portion of the site behind Richfield Farms; that the variances include use variance for townhouses, and variances for lot coverages, minimum lot area per dwelling unit, building height, and rear yard setback.

Objector Mohamed Salman inquired as to how long Richfield Village can continue in business if the application was approved. Ms. Morton responded as long as possible, hopefully for another 100 years.

Objector Ray Robertello inquired if an appraisal was obtained. Mr. Carlet responded in the affirmative; that there is no testimony on that.

Objector Robertello inquired if there was an option in the Contract for the developer to purchase the additional portion of the property (where the farm stand is). Ms. Morton responded in the affirmative, that the developer has the right of first refusal.

Objector Alessia Eramo of 35 Merrill Road, Clifton, New Jersey inquired if the staff size will change as a result of the sale. Ms. Morton responded that there would be no change in the staff; that no one would be laid off.

Objector Caitlin White inquired if the houses that back up on the property on Urma Avenue, when they had been put up for sale by the individual owners, whether the applicant intended to purchase them to increase the amount of acreage to qualify for the farmland assessment. Ms. Morton responded in the negative.

Objector John Neglia inquired if there was any paperwork from when the State took the property for the Parkway that would have entitled the owner to a farmland assessment. Mr. Carlet responded in the negative and stated that the farmland assessment statute was not passed until 1964.

Objector Ann Schnakenberg inquired if there was a way for the applicant to receive the farmland assessment, would she reconsider going forward with this application. Ms. Morton stated that it was beyond the tax issue now because she has incurred a lot of debt and being eligible for farmland assessment would not solve her problems.

Vice-Chrmn Scorziello explained his thoughts about how it is highly unusual that we are discussing issues concerning financial hardship, the past application for the cell tower, and the declining profit; that he was interested in hearing zoning testimony as well as what the applicant's business plan is for the future and some assurance that the relief sought in this application would cure applicant's problems. Mr. Carlet stated that he would have to come back after he obtained more details from his client.

At this point in the hearing, the matter was continued to the March 7, 2018, meeting of the Board.

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 George Foukas, seconded by Comr Louis DeStefano, and affirmed by Comrs Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of 326 PARKER AVENUE HOLDINGS LLC for use variance, bulk variances, and parking variance for two uses of apartments and a management office at 326 Parker Avenue, Block 4.05, Lot 1, was adopted.
B-C

There being no further business before the Board, Comr George Foukas 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 JANUARY 17, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: DANIEL SCHIMEL & NICOLE KATZ
for premises known as: 44 Annabelle Avenue, Block 71.02, Lot 11
be and the same is hereby: GRANTED variance for driveway in front of the home not serving a garage.

Testimony concerning the aforesaid application was taken by the Board at its meeting on January 17, 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, Vice-Chrmn Gerard Scorziello moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid for a driveway in front of the home not serving a garage at premises located at 44 Annabelle Avenue, Block 71.02, Lot 11, which premises are located in a RA3 zone; and

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

- a. The applicant requests approval for a driveway in front of the home not serving a garage;
- b. Applicant intends to convert 10 ½ feet of the back half of the garage into living space to be an addition to the family room;
- c. The front 10 ½ feet of the garage will remain, and the outside appearance of the house will not change.
- d. There is presently a double width driveway to accommodate parking for two cars;
- e. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- f. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since there will be no change to the appearance of the dwelling; and

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

bollards in the wall between the family room and the garage;

NOW THEREFORE, BE IT RESOLVED that the application for a variance for a driveway in front of the home not serving a garage at premises located at 44 Annabelle Avenue, Block 71.02, Lot 11, 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 with the stipulation that bollards will be installed in the wall between the family room and the garage.

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 VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr MICHAEL MOLNER.

Affirmed by: Comrs Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.