

Board of Adjustment
Minutes
February 15th, 2017

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, February 15, 2017. 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 LOUIS DE STEFANO, KEITH LA FORGIA, STEPHEN CHRISTOPHER, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMRS PAUL GRAUPE 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 Comr Stephen Christopher, the Minutes of the February 1, 2017, regular meeting was adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

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| 1. | YESHIVA KTANA OF PASSAIC, INC., |
| Variances; | 288, 292, 296, 300 & 304 South |
| Use | Parkway, Block 59.01, Lots 8, 11, |
| Variance | 13, 15 & 17 – R-B2 – Appeal or |
| | application for a use variance required |
| | to permit the demolition of the |
| | existing houses on the lots listed |

above and the construction of a parking lot thereon to service the abutting Yeshiva Ktana school in the City of Passaic; and bulk variances required for front yard setback (25 feet required, 6 feet proposed), side yard setbacks (20 feet required, 6 feet proposed), rear yard setback (35 feet required, 0 feet proposed), fence height and open space (4 feet 50% open fence permitted maximum, 4 foot high solid wall with 6 foot high 50% open fence in front of wall proposed), parking and maneuvering in front yard, parking within 10 feet of the rear line and failure to provide interior lot landscaping, and any other variances that may be determined by the Board to be required.

AS PUBLISHED AND UPDATED BY APPLICANT:

The Property (approximately 0.737 acres) is located within the R-B2 Residential Zone District ("R-B2 Zone") and is currently 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. Applicant seeks Preliminary and Final Site Plan Approval with associated conditional and/or use variance and other related waiver and variance relief for the construction and use of a parking area consisting of 73 +/- spaces, together with associated landscaping, fencing and other site enhancements, all accessory to the Applicant's school facility, which is located in the City of Passaic and is adjacent to the Subject Property.

All vehicular ingress and egress is proposed to be through the Applicant's Property in Passaic, other than a 20' "clear" opening gate for emergency access from South Parkway (southwestern corner of property) for use by and as requested the Clifton Fire Department for emergency personnel. 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 paddocks for Fire Department perimeter area access and creation/labeling of a "fire lane – no parking" areas. The following additional variances are required for the proposed parking area, which is accessory to the inherently beneficial religious and educational school:

1. §461-47: 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 (note no building on Property), inclusive of the fencing and gates to be installed in two locations along the South Parkway frontage, as requested in location and design by the Clifton Fire Department;
2. §461-60(E): no parking to be located within front yard – proposed: parking within front yard setback;
3. §461-60(F): no parking to be located within 10' of rear line – proposed: parking within rear yard setback;
4. §461-60(J): no parking or standing of automobiles within front, rear or side yards in residential districts – proposed: parking within

front yard setback;

5. §461-60(N): parking lots in excess of 10,000 sf to provide interior landscaping (20 sf/space)

- proposed: no interior landscaping but significant side and front perimeter buffer.

In addition to the foregoing described approvals, 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 Zoning Board of Adjustment after or during its continued 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 to the March 1, 2017, meeting of the Board.

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| 2. | 206 CLIFTON PARTNERS LLC, |
| Use | 206 Delawanna Avenue, Block 60.14, |
| Variances; Lots 13 and 33 – M-2 & M-3 – 1. Use | |
| Variances | variance under <u>N.J.S.A. 40:55D-70d(1)</u> |
| | to permit multi-family residential uses |
| | in the M-2 and M-3 zones whereas |
| | residential uses are not permitted in |

these zones and a use variance under N.J.S.A. 40:55D-70d(6) to permit a building height of 46.33 feet whereas only 40 feet is permitted; 2. Preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50 to allow a four (4) story, eighty (80) unit apartment building consisting of sixty-six (66) one-bedroom apartment units and eight (8) two-bedroom apartment units with a total of 146 off-street parking spaces (as required by and conforming with the Residential Site Improvement Standards); 3. In addition, applicant seeks bulk/dimensional variances under N.J.S.A. 40:55D-70c for the following:

- (1) to permit a lot area of 4.3 acres for buildings 41 to 80 feet in height within the M-3 zone whereas a minimum of 5 acres is required;
- (2) to permit a lot width of 125.5 feet whereas a minimum of 250 feet is required;
- (3) to permit a monument sign to be installed fifteen (15) feet from the front property line and within the front yard setback, whereas signs are required to have a 30 foot front yard setback;
- (4) to permit lighting levels in off-street parking areas to exceed 0.0 foot-candles at the property line;
- (5) to allow LED lighting for exterior lighting fixtures instead of the required high pressure sodium lighting;
- (6) to provide internal parking lot landscaping less than the required 20 square feet for each

proposed parking space; and
(7) to provide trees of 2 inch to 2.5 inch caliper which is less than the minimum 4 inch to 4.5 inch caliper required.
The applicant may also apply for such variance relief, exceptions, waivers, permits, approvals or licenses that are deemed necessary or appropriate by the applicant or the Board, and which may arise during the course of the hearing process. A public hearing on this application was held by the Zoning Board of Adjustment (“Board”) on May 18, 2016. [& June 15, 2016 and July 20, 2016]. A resumed public hearing before the Board on this application to allow further consideration of a revised site plan depicting a realigned driveway.

Ira E. Weiner, Esq., with offices at 50 Chestnut Ridge Road, Montvale, New Jersey, appeared on behalf of MMSR Realty, LLC, Delawanna Realty, and Glen Mills, Inc. Mr. Weiner indicated that he had been in touch with counsel for the applicant and counsel for one of the other objectors and they have requested that the Board conduct a special meeting on March 8, 2017; that he intends to present witnesses; however, the special meeting may consume all the witnesses presented by the other objectors.

The Board was polled, and Chrmn Zecchino indicated that a special meeting would be scheduled for March 8, 2017.

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| 3. | CLIFTON CHEDER, INC., 1333 Broad Street, |
| Use | Block 76.01, Lot 5 – B-A – Variances required |
| Variance; | for religious elementary school: 1) Conditional |
| Variances | use variance required. 2) Existing lot width is |
| | 133’ where 150’ is required. 3) Existing lot |
| | coverage is 24.74% where 20% is required. |
| | 4) Existing left side yard is 18.87’ where 20’ |
| | is required. 5) Site plan approval required. |

6) Any other variances deemed necessary
by the Board.

Beverly Carey of 142 Chittenden Road, Clifton, New Jersey, appeared before the Board and indicated that she received a communication from the applicant stating that a special meeting has been scheduled for February 22, 2017; that she thought the matter had been continued until March 1, 2017; that the scheduling of the special meeting was not fair to the viewers who watch the proceeding on the television.

Chrmn Zecchino responded that at the meeting on February 1, there was discussion of a special meeting; however, the applicant was unsure if they wished to proceed; that subsequently, counsel for the applicant did request a special meeting, and his request was granted subject to publication and notice not only to those within 200 feet but also the objectors and supporters who were present at the hearing on February 1, 2017. Chrmn Zecchino stated that the Board is in full compliance with the notice provisions of the Municipal Land Use Law. The special meeting will be conducted on February 22, 2017.

4.	JAMES MONTELBANO , 55 Walman Avenue,
Use	Block 24.08, Lot 9 – M1 – Applicant proposes
Variance	to use the first floor of this industrial use building for the office and storage for an electrical contractor. A use variance is required as the proposed use is a conditional use in an M-2 zone. Existing, nonconforming lot width and building setbacks. (no changes proposed).

James Montalbano and his wife, Elizabeth, residing at 1 Eaglewood Vista Lane, Pine Island, New York, were present and sworn. There were four objectors: Lucia and Roland Buchholz, 14 and 15 Wiedemann Avenue, Clifton, New Jersey; Joseph DeStefano, 9 Wiedemann Avenue, Clifton, New Jersey; and Theresa Porcaro of 9 Wiedemann Avenue, Clifton, New Jersey.

This is a continued hearing from the meeting of January 18, 2017.

Chrmn Zecchino requested Mr. Howell to advise whether there were any previous Minutes and Resolutions by the Board of Adjustment. Mr. Howell stated that he has reviewed the Minutes and the Resolution of the Board of Adjustment dated May 16, 1979, and June 6, 1979, and there is no mention of a buffer area.

Roland Buchholz stated that there was a 60-foot buffer granted by the City of Clifton and submitted a copy of a deed.

Lucia Buchholz stated that a detached garage was added; that garage doors were enlarged, ad the following exhibits were offered into evidence:

“O-1” is a photograph of the aerial view of the building and the surrounding area;

“O-2” is a photograph of the building before addition;

“O-3” is a photograph of the building after addition;

that the testimony indicated that something was put there that wasn't supposed to be there; that there is no municipal approval of same.

Theresa Porcaro indicated that she wants guarantees that the applicant will abide by any stipulations imposed by the Board.

After a review of the testimony, Comr Roy Noonburg moved to grant the application, stating that the proposal is less intense than a previous machine shop use and instructed the Counsel Secretary to prepare the proper Resolution subject to the following conditions:

1. That the applicant provide landscaping of arbor vitae trees along the rear of Lots 29, 30, and 31 and further the arbor vitae are to be 6 feet high;

2. That the hours of operation will be from Monday through Saturday 7 A.M. to 6 P.M.

The motion was seconded by Comr Stephen Christopher. Voting for the motion were Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, 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.

NEW HEARINGS

1.
- Variances

BETHANY & JOSHUA STRULOWITZ,

11 Allwood Place, Block 57.06, Lot 3 –

RA3 – Variances required for rear, 2nd

floor addition:

1) Rear yard setback proposed at 30’

where 35’ is required.

2) Combined side yards are 14’9” where

16’ is required.

3) Lot coverage proposed at 29.4%

where 27% is permitted (increase of

36 sq. ft. or 0.7%).

4) Existing non-conforming lot area.

The applicants, residing at 11 Allwood Place, Clifton, New Jersey, were present and affirmed to give testimony. There were no objectors.

Vice-Chrmn Scorziello excused himself from participating in the hearing and for the rest of the meeting.

The applicants testified that they request variance approval for a rear second floor addition at the subject premises; that the rear yard setback requirement is 35 feet and 30 feet is being proposed; that the combined side yard setback requirement is 16 feet and the applicants propose 14 feet 9 inches; that the lot coverage permitted is 27 percent, and the applicant is seeking 29.4 percent; that the proposed second floor addition will be above the structure.

After a review of the testimony, Comr Stephen Christopher 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 Comr Keith LaForgia. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino. By a six 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.	CLIFPASS SPE CORP., 83 Ackerman
Use	Avenue, Block 4.19, Lot 1 – PD-1A –
Variance;	A use variance to permit a portion
Variance	(32,204 sq. ft.) of the former PATHMARK building to be converted into L. A. FITNESS, a health and fitness center, and for amended site plan approval to permit an entrance for the use to be erected on the right side of the building facing the existing KMART building. In addition, because no one has a record of the total signage for the shopping center, a total signage variance may be required.

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: James O’Sullivan, Director of Development of LA Fitness of 333 Glen Head Road, Glen Head, New York; and Joshua Kashanian, Nassimi Realty Property Management, of 370 Seventh Avenue, New York, New York. There were no objectors.

Mr. Carlet stated that the applicant seeks approval of a use variance to permit a portion of a former Pathmark building to be converted into an L.A. Fitness health and fitness center; that the applicant seeks to amend the site plan and approval to permit an entrance for the use to be erected on the right side of the building facing the existing Kmart building; that the applicant is also seeking approval for sign variances.

James O'Sullivan testified as a Director of Development for the applicant; that there will be approximately 73 employees including part-time; that during the peak hour, there are 25 employees; that the hours of operation are normally from 5 A.M. to Midnight from Monday through Friday and 8 A.M. to 8 P.M. on Saturday and Sunday; that trash generated from within the club is transferred to a 3 yard container; that deliveries to the site will be minimal; that the signs proposed simply advertise L.A. Fitness; that the total membership will be in the area of 1,000 to 1,200 individuals.

The Board was in receipt of a report of Gregory Associates dated February 10, 2017, and the report of Neglia Engineering dated February 7, 2017. The applicant stipulation to compliance with all recommendations set forth in the Neglia report.

With respect to the positive and negative criteria, Mr. Carlet stated that the footprint of the building and of the entire shopping center is not being changed; that the proposal will provide an occupant for the presently-vacant former Pathmark store; that the total number of parking spaces is 823; that the signage will be facing traffic on Route 21 and not be visible from the City of Clifton; that the proposal will attract people to the fitness center which, in turn, will also attract people to Botany Village and will benefit all of the merchants therein.

After a review of the testimony, Comr Roy Noonburg moved to grant the applicant and instructed the Counsel Secretary to prepare the proper Resolution subject to the following stipulations:

1. That there be no 24-hour operation;
2. That the hours of operation will be from 5 A.M. to Midnight Monday through Friday and 8 A.M. to 8 P.M. on Saturday and Sunday;

3. The sign variances are granted and will be back-lit and not be alternating or blinking.

The motion was seconded by Comr Louis DeStefano who indicated that the proposal will be good for the area. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino. By a six 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. **ABBAS MALEK, LLC, 405 Piaget Avenue**
Use (Route 46) and 30-34 Montgomery Street,
Variance; Block 18.01, Lots 1, 13, and 14 – B-D –
Variances Conditional use approval, preliminary and
final major site plan approval (with lot
consolidation) and “c” and “d” variances
for a: multi-tenant commercial/retail
development, including but not limited to
a **DUNKIN DONUTS** restaurant. No drive-
thru facilities are proposed. The variances
sought under N.J.S.A. 40:55D-70.d relate to:
(a) multiple principal uses on a single lot;
(b) deviations from the standards of a
conditional use.
The bulk variances sought under N.J.S.A.
40:55d-70.c relate to:
(a) an accessory structure located within
sixty feet (60’) of the front lot line,
(b) a non-compliant fence located within
ten feet (10’) of a street lot line,
(c) the location of a driveway relative to a
street intersection,
(d) the size of off-street parking spaces,

- (e) the location of an off-street parking/
maneuvering area in the front yard,
- (f) the height of a ground sign; and
- (g) the location of a ground sign in the
front yard.

In addition to the above approvals and relief, the Applicant requests that the application be deemed amended to include, and that the Board grant any additional approvals, variances, exceptions, or waivers determined to be necessary in the review and processing of this application, whether requested by the Applicant, the Board or otherwise.

John P. Wyciskala, Esq., with offices at 600 Parsippany Road, Suite 204, Parsippany, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Tung-To Lam of Bohler Engineering, Project Manager, 35 Technology Drive, Warren, New Jersey; Corey M. Chase of Atlantic Traffic and Design, Senior Project Manager, 35 Technology Drive, Warren, New Jersey; and Frank M. Truilo, Architect, 8 Martin Place, Chatham, New Jersey.

Mr. Wyciskala stated that the applicant requests use variance and bulk variance approval to demolish the existing buildings on site and erect a multi-tenant commercial development consisting of 1,895 square feet of Dunkin Donuts and 4,576 square feet of retail space; that the vehicular access to the site is from a two-way street from Montgomery Street close to Barkley Avenue and from Piaget Avenue in the form of a 32.5 foot wide driveway in and one 30 foot wide driveway out from the site; that the applicant is providing 44 parking spaces; that the building is set in the southeast corner of the site with parking aligning the north and west sides of the building.

Tung-To Lam testified as the Project Engineer and stated that the property consists of approximately 36,311 square feet; that the frontage is along Piaget Avenue or commonly known as Route 46 to the north, Montgomery Street to the west, and Barkley Avenue to the south; that the site is located within a B-D zone; that the site is presently occupied by a vacant gas station and a detached garage

which will be demolished; that the applicant proposes a new 6,471 square foot building consisting of a Dunkin Donuts with a Baskin-Robbins and additional retail space for three tenants; that access to the site will be provided via a single right-turn ingress and right-turn egress driveway along eastbound Route 46 and via one full movement driveway along northbound Montgomery Street; that access for loading and unloading will be from Route 46 and will occur at approximately 4 A.M. in the morning.

The Board had for its review the benefit of the report of Neglia Engineering dated January 19, 2017, and a response letter from the applicant dated February 15, 2017; the Board also reviewed the report of Gregory Associates, planning consultant for the Board, dated February 13, 2017. The applicant stipulated to compliance with all recommendations set forth in the report of Neglia Engineering dated January 19, 2017, and noted that high-pressure sodium lighting would be installed at the site.

Corey M. Chase testified as a Senior Project Traffic Design Manager; that he has submitted a report dated December 21, 2016, in which he has reviewed the existing roadway and traffic conditions in the vicinity of the site; that the projection of the volume of traffic expected to be generated to the retail development and the adjacent roadway network; that an analysis of future roadway and driveway operations and site plan evaluation focusing on access design, on-site circulation, and parking supply; that in his opinion, the proposed retail development will not significantly impact traffic conditions in the vicinity of the site; that the site generated traffic is projected to be approximately 1.5 percent of total traffic at the Route 46/Montgomery Street intersection; that the proposed parking supply exceeds the conditional use criteria for coffee and donut shops without a drive-in facility and the retail use; that site access and circulation have been designed consistent with acceptable engineering design standards; that the Dunkin Donuts will not have a drive-thru facility.

Frank M. Truilo testified as an architect and stated that the Dunkin Donuts store will consist of 1,895 square feet; that the other 4,576 square feet of retail space will be divided into three stores; that a D-1 variance is required for multiple uses on one lot since no more than one use is permitted; that the applicant proposes to conduct its business from 5 A.M. to 11 P.M., seven days a week.

At this point in the hearing, Chrmn Zecchino continued the matter until the March 1, 2017, meeting of the Board.

RESOLUTIONS

Chrmn Zecchino announced that the next order of business is the adoption of the Resolutions set forth on the Agenda.

1. Upon motion made by Comr George Foukas, seconded by Comr Roy Noonburg, and affirmed by Comrs Louis DeStefano, Stephen Christopher, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of eCUBe 237 LLC for construction of a three-story building containing commercial on the first floor and five residential units on the second and third floor, minor subdivision, and use variance for residential use at 237 Dayton Avenue, Block 4.23, Lot 1.00, was adopted. PD1

2. Upon motion made by Comr Stephen Christopher, seconded by Comr Louis DeStefano, and affirmed by Comrs Louis DeStefano, Stephen Christopher, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of EKREM GUVEN for a use variance and parking variance to convert a two-family dwelling to a residential use on the second floor and a barber shop on the first floor at 303 Crooks Avenue, Block 5.05, Lot 5, was adopted. B-C

3. Upon motion made by Comr Stephen Christopher, seconded by Comr George Foukas, and affirmed by Comrs Stephen Christopher, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of SAM ZUCKERMAN for a rear yard setback variance for a rear deck at 37 Conover Court, Block 71.03, Lot 10, was adopted. RA3

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 FEBRUARY 15, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JAMES MONTALBANO
for premises known as: 55 Walman Avenue, Block 24.08, Lot 9
be and the same is hereby: GRANTED use variance to use the first floor of an industrial building for office and storage for electrical contractor.

Testimony concerning the aforesaid application was taken by the Board at its meetings on January 18, 2017, and February 15, 2017. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests use variance approval to use the first floor of the industrial building for office and storage for electrical contractor at premises located at 55 Walman Avenue, Block 24.08, Lot 9, which premises are located in a M-1 zone; and

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

- a. The applicant proposes to use the first floor of the industrial building for the office and storage of electrical equipment contractor;
- b. A use variance for the building was granted on May 16, 1979, and a Resolution was adopted on June 6, 1979, to permit the building;
- c. The applicant and his wife are the owners of the building and will be occupying the same;
- d. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- e. The proposed office and storage for electrical contractor is a less intense use

than the previous machine shop use;

f. The applicant has stipulated to hours of operation and plantings to buffer the noise from the site complained of by the adjacent neighbors;

g. The applicant has shown sufficient hardship since the building exists on a non-conforming lot width and building setback;

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

WHEREAS, the Board finds from the testimony presented that the proposed use will be less intense than the previous use as a machine shop and will be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that both the applicant and the objectors have agreed to the stipulation of hours of operation and landscaping to buffer the noise which will help promote the health, safety, and general welfare of the area;

(CONTINUED)

(CONTINUED)

NOW THEREFORE, BE IT RESOLVED that the application to use the first floor of an industrial building for the office and storage for an electrical contractor at premises located at 55 Walman Avenue, Block 24.08, Lot 9, be and the same is hereby approved and the use variance be and the same is hereby granted subject to such further governmental approvals as may be required by law and subject to the

following:

1. That the applicant plant arbor vitae landscaping along the residences of Lots 29, 30, and 31, said arbor vitae to be 6 feet in height;
2. That the hours of operation are from 7 A.M. to 6 P.M. Monday through Saturday;
3. That the facility will be locked after closing to prevent third parties from utilizing the parking area.

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 ROY NOONBURG.

Seconded by: Comr STEPHEN CHRISTOPHER.

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

MEETING OF FEBRUARY 15, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: BETHANY & JOSHUA STRULOWITZ
for premises known as: 11 Allwood Place, Block 57.06, Lot 3
be and the same is hereby: GRANTED rear yard setback, combined side yard setbacks, and lot coverage variances for a second floor addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 15, 2017. 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 variances as aforesaid for a second floor rear addition at premises located at 11 Allwood Place, Block 57.06, Lot 3, which premises are located in a RA3 zone; and

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

- a. The applicant proposes a second floor rear addition above the existing structure;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 30 feet;
- c. The combined side yard setback requirement is 16 feet, and the applicant is proposing 14 feet 9 inches;
- d. The lot coverage permitted is 27 percent, and the applicant is proposing 29.4 percent which is an increase of 36 square feet or 0.7 percent;
- e. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- f. 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;

NOW THEREFORE, BE IT RESOLVED that the application for a second floor rear addition at premises located at 11 Allwood Place, Block 57.06, Lot 3, be and the same is hereby approved and the variances for rear yard setback, combined side yard setbacks, and lot coverage 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 STEPHEN CHRISTOPHER.

Seconded by: Comr KEITH LA FORGIA.

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

MEETING OF FEBRUARY 15, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFPASS SPE CORP.
for premises known as: 83 Ackerman Avenue, Block 4.19, Lot 1
be and the same is hereby: GRANTED a use variance to permit a portion (32,204 square feet) of the former Pathmark building to be converted into an L.A. Fitness, a health and fitness center, and amended site plan approval to permit entrance to the building on the right side and total signage variances.

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 15, 2017. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests use variance approval as aforesaid for an L.A. Fitness center occupying a portion of a former Pathmark building at premises located at 83 Ackerman Avenue, Block 4.19, Lot 1, which premises are located in a PD-1A zone; and

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

- a. The applicant proposes to occupy a portion 32,204 square feet of a former Pathmark building at the site in question;
- b. The proposed membership will be approximately 1,000 to 1,200 individuals;
- c. There will be 75 employees, including part-time help;
- d. The hours of operation will be from 5 A.M. to 12 Midnight Monday through Friday and 8 A.M. to 8 P.M. Saturday and Sunday.
- e. There will be a total of 823 parking spaces;

f. The applicant has stipulated to all recommendations set forth in the Neglia Engineering report dated February 7, 2017;

g. The applicant has satisfied the positive and negative criteria, and the Board has had the opportunity to review the report of its planning consultant, Gregory Associates, dated February 10, 2017;

h. The applicant has shown sufficient hardship to justify the approval of the signage variances requested;

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

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

(CONTINUED)

(CONTINUED)

WHEREAS, the Board further finds that proposal will help promote the health, safety, and general welfare of the neighborhood by attracting people to the fitness center which, in turn, will attract people to Botany Village and benefit all of the merchants therein; and

WHEREAS, the applicant has indicated a total number of 823 parking spaces

which is adequate to accommodate the membership to the fitness center and help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to permit a portion of a former Pathmark building to be converted into an L.A. Fitness center at premises located at 83 Ackerman Avenue, Block 4.19, Lot 1, be and the same is hereby approved and the use variance and the total signage variance be and the same is hereby granted subject to such further governmental approvals as may be required by law subject to the following stipulations:

1. That there be no 24-hour operation at the site;
2. That the hours of operation will be from 5 A.M. to Midnight Monday through Friday and 8 A.M. to 8 P.M. on Saturday and Sunday.
3. The applicant will utilize back-lit signage which will indicate L.A. Fitness with no blinking or alternating signs permitted.

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 ROY NOONBURG.

Seconded by: Comr LOUIS DE STEFANO.

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