

Board of Adjustment
Minutes
March 1, 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, March 1, 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 MICHAEL MOLNER, DANIEL TRENK, LOUIS DE STEFANO, STEPHEN CHRISTOPHER, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR KEITH LA FORGIA.

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

Upon motion made by Comr Stephen Christopher, seconded by Comr Louis DeStefano, the Minutes of the February 15, 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.

Gail L. Price, Esq., with offices at 50 Tice Boulevard, Woodcliff Lake, New Jersey, appeared on behalf of the applicant. John P. Inglesino, Esq., with offices at 600 Parsippany Road, Parsippany, New Jersey, appeared on behalf of objector Donald D. Chappa. Mary Sadrakula of 340 Dwasline Road, Clifton, New Jersey, appeared *pro se*. There were a number of objectors present: Maurizio A. Marsilla, High St., Clifton, NJ; Donald Chappa, 314 S. Parkway, Clifton, NJ; Joseph Addabbo, 45 St. James Pl., Clifton, NJ; Kelly Eckert, 203 Edgewood Ave., Clifton, NJ; Vivian McDermott, 203 Edgewood Ave., Clifton, NJ; George Putykewycz, 289 South Parkway, Clifton, NJ; Vito J. Addabbo, 46 Oak Ridge Rd., Clifton, NJ; Raymond Keegan, 16 Franklin Ave., Maplewood, NJ; Lois Doremus, Main Ave., Clifton, NJ; Henry Cholewczynski, Phyllis

Pl., Clifton, NJ; and Vincent A. D'Arrigo NO ADDRESS GIVEN (all information typed as handwritten).

This is a continued hearing from the meetings of October 7, 2015; November 4, 2015; January 6, 2016; April 13, 2016; May 11, 2016; and September 14, 2016.

Comrs Daniel Trenk and John Foukas previously excused themselves from participating in the matter.

Ms. Price stated that one of the Board's consulting engineers purchased property within 200 feet of the applicant's property during the pendency of the application while Board hearings were ongoing; that this created a conflict of interest that cannot be waived; that as a result of the conflict, the Board should stop all proceedings on this application and declare the record to be void; that the applicant should be given the opportunity to allow for a presentation of the matter anew. The argument and case law is set forth in her communication dated January 23, 2017, to the Board.

Mr. Inglesino argued that the alleged conflict by the engineer does not render the application void; that the Board has a remedy to exclude the engineer's testimony and report from the record and replace it with that of a new engineer; that the case of Munico Associates, L.P. v. Inserra Supermarkets, Inc. 2016 WL 4395678 (App. Div. 2016) is an Appellate Division case which allowed a Board to remedial steps of the proceedings and did not need to have the application proceed anew.

Mary Sadrakula, appearing *pro se*, stated that the Board has a remedy to hire a new engineer to correct the ethical violation; that the Board has an obligation to the citizens of the City of Clifton.

Vice-Chrmn Scorziello stated that he has heard the argument of counsel and is ready to proceed in voting on the matter. Chrmn Zecchino requested that the Board be polled, and Comrs DeStefano, Christopher, Noonburg, Vice-Chrmn Scorziello, and Chrmn Zecchino stated that they were prepared to vote. Comrs Foukas and Trenk previously excused themselves from the within matter.

Thereupon, Vice-Chrmn Gerard Scorziello moved to declare the prior record of proceedings null and void and permit the applicant to start a new hearing so that any conflict may be removed. Comr Louis DeStefano seconded the motion, stating that

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.

This matter was previously continued by the Board to a special meeting on 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. |

This matter was previously continued by the Board to a special meeting on May 10, 2017.

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| 4. | 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, Parsippany, New Jersey, appeared on behalf of the applicant. Present and sworn was John McDonough of 101 Gibraltar Drive, Morris Plains, New Jersey, a professional planner.

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

Comr Daniel Trenk sat in place and stead of Comr Keith LaForgia.

Mr. McDonough had marked into evidence "Exhibit A-3" which is an aerial view of the site along with eight photographs depicting the site in question, the neighboring retail uses on Piaget Avenue, and other uses in the neighborhood. Mr. McDonough testified that the applicant proposes a multi-tenant commercial development with Dunkin Donuts consisting of 1,731 square feet and retail space of 4,574 square feet; that the proposal is for a conditional use in a B-D zone district; that the proposal will not have any significant negative impacts; that the proposal is particularly suited for the site in question; that the application satisfies purposes (a), (e), and (g) of the Municipal Land Use Law; that the retail stores will be consistent with the existing stores in the neighborhood; that there will be no negative impact to Clifton's Master Plan or Zone Ordinance; that the benefits of the application substantially outweigh any detriments, if any; that the proposal is an appropriate reuse of a former gasoline service station; that the goals of the Master Plan are advanced; that it is a redevelopment of a site which is presently vacant; that the application satisfies the positive and negative criteria required for the grant of a use variance; that no drive-thru facilities are proposed; that all deliveries will be in the front of the premises; that the proposal will not be a 24-hour operation; that the hours of operation will be from 5 A.M. to 11 P.M., seven days a week; that there will be no tractor trailers coming to the site; that a sidewalk will be located behind the dumpster; that the applicant will comply with the high-pressure sodium light requirement.

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

1. That there be no 24-hour operation;
2. That deliveries to the site will be in the front of the premises;
3. That the hours of operation will be from 5 A.M. to 11 P.M., seven days a week;
4. That there will be no tractor trailers coming to the site, only box trucks;

5. The applicant will install high-pressure sodium lights as required by the Clifton Zoning Ordinance;
6. The applicant will install a sidewalk behind the dumpster; and
7. Subject to Passaic County Planning Board approval.

The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, 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. **GIUSEPPE MOSCA**, 36 Lois Avenue,
Variance Block 81.12, Lot 17 – RA3 – Variance
required for a rear yard deck: 1) Rear
yard proposed at 25' where a minimum
of 35' is required.

The applicant, residing at 36 Lois Avenue, Clifton, New Jersey, was present and sworn. Also present and sworn was Michelle Ciliocio of 30 Lois Avenue, Clifton, New Jersey.

Mr. Mosca stated that he requests variance approval for a rear deck at the subject premises; that the rear yard setback requirement is 35 feet, and he is proposing 25 feet; that the deck will be off the rear of the new addition.

Mrs. Ciliocio stated that she has a pool in her rear yard; that there was shrubbery planted along the applicant's lot line which provided privacy; that the shrubbery was removed; that the deck will be looking down into the pool; that this proposal will negatively impact her property.

Chrmn Zecchino suggested that the applicant install and plant arbor vitae along the neighbor's property line 6 feet in height. Mr. Mosca stated that he would comply with this stipulation.

Thereupon, Comr DeStefano moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the stipulation that the arbor vitae be planted along the side of the property 6 feet in height to provide privacy for both parties. The motion was seconded by Comr Daniel Trenk. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, 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.

2. **EROL PESOCAN, 120 Fordham Road,**
Variance **Block 26.04, Lot 26 – RA3 – Variance**
required for an enclosed front stoop
already built: 1) Front yard addition
requires a 25' setback and 21' provided.

The applicant, residing at 120 Fordham Road, Clifton, New Jersey, was present and sworn. There were no objectors.

Mr. Pesocan testified that he requests variance approval to accommodate a front entrance enclosure 7 feet by 4 feet which will encroach into the front yard setback of 25 feet; that he will be providing 21 feet; that the proposal will not obstruct neighbors' sight line and will not be detrimental to the neighborhood.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the front yard setback variance. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, 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.

3. **EKATERINA BYKOVA, 227 Lakeview**

Use Avenue, Block 2.11, Lot 67 – B-C –
Variance; Variances required to use property for
Variance a dance studio/school: 1) Conditional use variance required; 2) Dance school requires 2 parking spaces for students (1 per 5 students) and 2 for staff. Existing office requires 6 parking spaces. Building has no existing parking. Parking variance required – 10 spaces required and 0 provided.

The applicant, residing at 720 Monroe Street, Hoboken, New Jersey, was present and sworn. Also present and sworn was Yurt Prop of 15 Cross Street, Closter, New Jersey. There were no objectors.

The applicant testified that she requests conditional use variance approval for a dance school at 227 Lakeview Avenue; that the dance studio will provide lessons for private ballroom dancing for two to three couples at any one time with two instructors; that the subject premises 225 Lakeview Avenue and 227 Lakeview Avenue are owned by the same individual; that the site in question requires six parking spaces but has no direct access to the site; that the owner of 225 Lakeview Avenue has agreed to grant an access easement to 227 Lakeview Avenue to allow for parking in the rear of 227 Lakeview Avenue; that the dance school will operate five days a week from the hours of 1 to 10 P.M.; that the dance school will be open on Saturday by appointment only.

After a review of the testimony, Comr Stephen Christopher moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution subject to an access easement be provided for 227 Lakeview Avenue through 225

Lakeview Avenue to allow for parking in the rear of the subject premises and subject to Passaic County Planning Board approval. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, 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.

4. **ALEXANDRA NUNEZ-GUERRERO,**
Variances 287 South Parkway, Block 59.03,
Lot 15 – RB2 – Variances required to
build a new two-family; lot previously
had two-family home completely
destroyed by fire. 1) Existing nonconforming
lot width and area; 2) Lot coverage proposed
at 36.7% where a maximum of 25% is
permitted; 3) Rear yard proposed at 31'
where 35' is required; 4) Left side yard
proposed at 3' and right side yard proposed
at 2' where a minimum 12' each is required;
5) Combined side yards proposed at 5' where
24' is required.

Jonathan J. Mincis, Esq., with offices at 58 Main Street, Hackensack, New Jersey, appeared on behalf of the applicant. Glenn Peterson, Esq., with offices at 1037 Route 46, Clifton, New Jersey, appeared on behalf of an objector. The applicant, residing at 212 Lake Avenue, Clifton, New Jersey, was present and sworn. Also present and sworn was Peter Vahala of 54 Jackson Street, Woodland Park, New Jersey, an architect and planner.

Mr. Mincis stated that the applicant requests variances to build a new two-family house on a lot which housed a two-family home that was destroyed by fire.

Chrmn Zecchino stated that the matter is subject to the doctrine of *res judicata* since the Board did deny a previous application for the site on October 5, 2016.

Mr. Mincis stated that at the previous application, the applicant was providing three bedroom apartments which now have been changed to two bedroom apartments.

Mr. Peterson had marked into evidence "O-1" which is a copy of the notice dated October 5, 2016, and the notice dated March 1, 2017 and "O-2" which is the Resolution adopted by the Board on October 5, 2016. Mr. Peterson stated that the same relief is required on both notices and that the Resolution of October 5, 2016, states that due to the five variances requested, the Board found that there was an overuse of the premises as well as the fact that the applicant had failed to show any hardship.

After review, Vice-Chrmn Gerard Scorziello moved to hear the matter since he previously was on the application and he voted against it because the units provided for three-bedroom apartments and now have been changed to two-bedroom apartments. The motion was seconded by Comr Stephen Christopher. Voting to hear the application were Comrs Louis DeStefano, Stephen Christopher, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting to not hear the application were Comrs Daniel Trenk, George Foukas, and Roy Noonburg. By a four to three vote, the motion carried, and the applicant was permitted to continue its presentation.

Ms. Guerrero testified that she wishes to build a two-family dwelling which was at the site and will have two-bedroom apartments instead of three-bedroom apartments.

Peter Vahala testified as an architect and planner and stated that the applicant will build with fire-resistant walls; that these walls provided two hour time limit to burn before flames moved to adjacent properties; that the current lot is non-conforming in area and width which is the applicant's hardship; that there is a hardship for any development on the site because of the width and area of the property; that the previous home had 34 percent lot coverage, and the present application is providing for 25 percent lot coverage; that the increase in size is by 10 square feet.

Mr. Peterson, in summation, stated that the application should have been dismissed since the applicant has not shown sufficient proof to overcome the doctrine of *res judicata*; that the applicant is increasing the intensity of the variances requested.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the stipulation that the applicant provide fire-resistant wall construction and moving the building as testified to by the architect. The motion was seconded by Comr Stephen Christopher. Voting for the motion were Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting against the motion 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.

5. JANE COLEMAN, 23 Heights Road,
Variances Block 50.10, Lot 14 – RA2 – Variances
required for a proposed rear yard addition:
1) Left side yard proposed at 4.43' where
6' is required; 2) Combined side yards
proposed at 12.33' where 16' is required;
3) Existing nonconforming lot width and
area.

The applicant, residing at 23 Heights Road, Clifton, New Jersey, was present and affirmed to give testimony. There were no objectors.

Comr Trenk excused himself, and Comr Molner sat in his place and stead.

Ms. Coleman testified that she requests variance approval for a rear yard addition; that the left side yard setback requirement is 6 feet, and she is proposing 4.43 feet; that the combined side yard requirement is 16 feet, and she is proposing 12.33 feet; that the premises in question has a non-conforming lot width and area.

After a review of the testimony, Comr Roy Noonburg moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variances requested for the rear addition. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, 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.

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 Roy Noonburg, seconded by Comr Stephen Christopher, and affirmed by Comrs Louis DeStefano, Stephen Christopher, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JAMES MONTALBANO for a use variance to use the first floor of an industrial building for office and storage for electrical contractor at 55 Walman Avenue, Block 24.08, Lot 9, was adopted.

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 BETHANY & JOSHUA STRULOWITZ for rear yard setback, combined side yard setbacks, and lot coverage variances for a second floor addition at 11 Allwood Place, Block 57.06, Lot 3, was adopted.

3. Upon motion made by Comr Roy Noonburg, 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 CLIFPASS SPE CORP. for 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 at 83 Ackerman Avenue, Block 4.19, Lot 1, was adopted. PD-1A

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF MARCH 1, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: YESHIVA KTANA OF PASSAIC, INC.
for premises known as: 288, 292, 296, 300 & 304 South Parkway,
Block 59.01, Lots 8, 11, 13, 15, and 17
be and the same is hereby: DISMISSED WITHOUT PREJUDICE for a use variance and bulk variances to permit the demolition of existing houses on Lot Nos. 8, 11, 13, 15, and 17 and the construction of a parking garage thereon to service the abutting school.

Testimony and legal argument concerning the aforesaid application was taken by the Board at its meetings on October 7, 2015; November 4, 2015; January 6, 2016; April 13, 2016; May 11, 2016; September 14, 2016, and March 1, 2017. Said testimony including the applications 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 dismiss the matter without prejudice on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval and bulk variances to permit the demolition of existing houses on the aforesaid lots and to permit construction of a parking lot to service the abutting school at premises located at 288, 292, 296, 300, and 304 South Parkway, Block 59.01, Lots 8, 11, 13, 15, and 17, which premises are located in an R-B2 zone; and

WHEREAS, the Zoning Board of Adjustment did engage Neglia Engineering Associates to review the application and issue reports concerning same; and

WHEREAS, at some point during the performance and exercise of professional engineering advice, a representative of Neglia Engineering Associates did purchase property located within 200 feet of the Yeshiva property; and

WHEREAS, the purchase of said property did, in fact, create a conflict of interest which tainted all proceedings conducted before the Board; and

WHEREAS, the Board has received by written communication dated January 23,

2017, from the applicant's attorney a request to declare null and void the records before the Board and permit the applicant to re-file the application to be reviewed by a new consulting engineer; and

WHEREAS, the Board is in receipt of counsel for the objectors dated March 1, 2017, arguing that the Board has a remedy for the conflict which would be to exclude any testimony and reports from the record given by the representative from Neglia Engineering Associates and to replace it with that of a new engineer; and

WHEREAS, the Board, after hearing argument by counsel for the applicant and counsel for the objector and a *pro se* objector, has made the following factual findings:

a. The representative from Neglia Engineering Associates did in fact purchase property within 200 feet of the location which is the subject matter of review by the Board;

(CONTINUED)

(CONTINUED)

b. Said purchase did create a non-waivable conflict of interest;

c. In order to protect the proceedings from being tainted and to protect all parties in interest, plus the public, as well as the integrity of the Zoning Board of Adjustment of the City of Clifton, the application and the record made before the Board is declared null and void as a result of said conflict;

d. The applicant shall have the opportunity to re-file its application and will not be subject to proofs required by the doctrine of *res judicata*;

e. A new engineer shall be engaged by the Board to review the application on its behalf; and

WHEREAS, the Board finds that in the best interests of all parties concerned and the public interest, that the request of the applicant to have the record declared null and void is correct and reasonable;

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for a use variance to permit the demolition of the existing houses on Lots 8, 11, 13, 15, and 17 in Block 59.01 and the construction of a parking lot in the City of Clifton be and the same is hereby dismissed without prejudice; and

BE IT FURTHER RESOLVED that the record previously made before the Board be and it is hereby declared null and void; and

BE IT FURTHER RESOLVED that the applicant shall have the right to re-file its application and not be subject to proofs required by the doctrine of *res judicata*.

Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr LOUIS DE STEFANO.

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

MEETING OF MARCH 1, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ABBAS MALEK, LLC
for premises known as: 405 Piaget Avenue (Route 46) and
30-34 Montgomery Street, Block 18.01, Lots 1, 13 and 14
be and the same is hereby: GRANTED conditional use approval, preliminary and final major site plan approval with lot consolidation and bulk and use variances for a multi-tenant commercial and retail development, including a Dunkin Donuts proposed.

Testimony concerning the aforesaid application was taken by the Board at its meetings on February 15, 2017, and March 1, 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 approvals as aforesaid for a multi-tenant commercial and retail development at premises located at 405 Piaget Avenue (Route 46) and 30-34 Montgomery Street, Block 18.01, Lots 1, 13, and 14, which premises are located in a B-D 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 a Dunkin' Donuts occupying 1,731 square feet and retail space of approximately 4,574 square feet;
- b. The Dunkin' Donuts restaurant shall not have drive-thru facilities; will operate between the hours of 5 A.M. and 11 P.M., seven days a week; will not operate on a 24-hour basis;
- c. Based upon the testimony of the applicant's traffic expert, the proposed retail development will not significantly impact traffic conditions in the vicinity of the site; the proposed parking supply exceeds the number of spaces required; and the site access, circulation, and egress have been designed consistent with accepted engineering design standards;

d. Based upon the testimony presented by the applicant's planner, the site is particularly suited for the proposed development; that the proposal is an appropriate use of a former gasoline station and a proper re-development of the site;

e. The proposal advances purposes (a), (e), and (g) of the Municipal Land Use Law;

f. The applicant has satisfied the positive and negative criteria required for the grant of a use variance for multiple uses and conditional use variance for side yard and rear yard;

g. The applicant has shown sufficient hardship to justify the grant of the "c" variances of accessory structure within 60 feet of the front lot line; non-compliance fence located within ten feet of street line; location of driveway relative to intersection; size of parking spaces; location of off-street parking and maneuvering area in front yard; height of ground sign, and location of ground sign in front yard;

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

(CONTINUED)

(CONTINUED)

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 which calls for an appropriate re-development of the site; and

WHEREAS, the Board further finds the site generated traffic is projected to be only

approximately 1.5 percent of the total traffic and that there is more than adequate parking supply at the site which will help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for “d” and “c” variances for a multi-tenant commercial development consisting of a Dunkin’ Donuts and retail space at premises located at 405 Piaget Avenue (Route 46) and 30-34 Montgomery Street, Block 18.01, Lots 1, 13, and 14, be and the same is hereby approved and the use variance, conditional use variance, and variances for accessory structure within 60 feet of the front line, non-compliant fence located within 10 feet of the street line, location of driveway relative to intersection, size of parking stalls, location of off-street parking and maneuvering area in the front yard, height of ground sign, and location of ground sign in front yard be and the same is hereby granted subject to such further governmental approvals as may be required by law and subject to the following conditions:

1. That there be no 24-hour operation of the Dunkin’ Donuts;
2. All deliveries to the site must be made in the front of the premises;
3. That the hours of operation of Dunkin’ Donuts will be from 5 A.M. to 11 P.M., seven days a week;
4. That there will be no tractor trailers permitted at the site;
5. The applicant is required to install high-pressure sodium lighting;
6. The applicant will install a sidewalk behind the dumpster; and
7. Subject to Passaic County Planning Board approval.

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

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

MEETING OF MARCH 1, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: GIUSEPPE MOSCA
for premises known as: 36 Lois Avenue, Block 81.12, Lot 17
be and the same is hereby: GRANTED rear yard setback variance for a rear deck.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 1, 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 Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests a rear yard setback variance for a rear deck at premises located at 36 Lois Avenue, Block 81.12, Lot 17, which premises are located in a RA3 zone; and

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

- a. The applicant proposes a rear yard deck 25 feet from the rear lot line where the minimum requirement is 35 feet;
- b. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- c. The benefits of the application outweigh the detriments, if any;
- d. The applicant has stipulated to planting arbor vitae 6 feet high along the neighbor's property line; 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 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 rear yard deck at

premises located at 36 Lois Avenue, Block 81.12, Lot 17, be and the same is hereby approved and the rear yard setback variance be and the same is hereby granted subject to such further governmental approvals as may be required by law subject to the condition that the applicant plant 6-foot-high arbor vitae trees along the neighbor's property line.

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 LOUIS DE STEFANO.

Seconded by: Comr DANIEL TRENK.

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

MEETING OF MARCH 1, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: EROL PESOCAN
for premises known as: 120 Fordham Road, Block 26.04, Lot 26
be and the same is hereby: GRANTED a front yard setback variance for a front stoop.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 1, 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 George Foukas moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests front yard setback variance for an enclosed front stoop at premises located at 120 Fordham Road, Block 26.04, Lot 26, which premises are located in an RA3 zone; and

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

- a. The applicant requests a front yard setback variance for a front stoop already built;
- b. The setback requirement is 25 feet, and the applicant is proposing 21 feet;
- c. The proposed enclosed front stoop does not obstruct any neighbors;
- d. The applicant has shown sufficient hardship for the grant of the variance requested;
- e. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a front stoop at premises located at 120 Fordham Road, Block 26.04, Lot 26, be and the same is hereby approved and the variance for front yard setback be and the same is hereby granted subject to such further governmental approvals as may be required by law.

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

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

MEETING OF MARCH 1, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: EKATERINA BYKOVA
for premises known as: 227 Lakeview Avenue, Block 2.11, Lot 67
be and the same is hereby: GRANTED use variance, conditional use variance, and parking variance for a dance studio and school.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 1, 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 variance approval as aforesaid for a dance studio and school at premises located at 227 Lakeview Avenue, Block 2.11, Lot 67, which premises are located in a B-C zone; and

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

- a. The applicant proposes a dance studio for private ballroom dancing with two instructors teaching two to three couples at one time;
- b. The hours of operation will be five days a week from 1 P.M. to 10 P.M. and Saturday by appointment;
- c. There is no access to the parking in the rear at 227 Lakeview Avenue; however, the owner of 225 Lakeview Avenue has agreed to an access easement to permit parking in the rear of 227 Lakeview Avenue;
- d. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- e. The applicant has shown sufficient hardship to justify the grant of the bulk variance;
- 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 the access easement will allow for parking in the rear of the subject premises which will help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to use the subject

premises for a dance studio and school at premises located at 227 Lakeview Avenue, Block 2.11, Lot 67, be and the same is hereby approved and the use variance, conditional use variance, and bulk variance for parking be and the same is hereby granted subject to such further governmental approvals as may be required by law subject to the stipulation that the applicant receive an access easement over the premises at 225 Lakeview Avenue to access the site for parking in the rear of 227 Lakeview Avenue; and further subject to Passaic County Planning Board approval.

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

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

MEETING OF MARCH 1, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ALEXANDRA NUNEZ-GUERRERO for premises known as: 287 South Parkway, Block 59.03, Lot 15 be and the same is hereby: GRANTED variances for nonconforming lot width and area, lot coverage, rear yard setback, left side yard setback, right side yard setback, and combined side yard setbacks for a new two-family dwelling.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 1, 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, Vice-Chrmn Gerard Scorziello moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid to erect a new two-family dwelling at premises located at 287 South Parkway, Block 59.03, Lot 15, which premises are located in an RB2 zone; and

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

- a. On October 5, 2016, the Board previously denied a similar application which requires the present application to overcome the doctrine of *res judicata*.
- b. The applicant has overcome the doctrine of *res judicata* by testifying that instead of 2 three-bedroom apartments, the three-bedroom apartments will be reduced to two-bedroom apartments;
- c. Based upon the testimony presented by applicant's architect and planner, there will be a hardship for any development on the property;
- d. That the current lot is non-conforming in area and width;
- e. That the previous lot coverage was 34 percent, and the applicant has reduced that to 25 percent;
- f. That the applicant will construct the premises with fire-resistant materials;
- g. The applicant has shown sufficient hardship for the grant of the variances requested;
- h. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since a two-family dwelling previously existed on the site before it was destroyed by fire;

and

WHEREAS, the Board further finds there the applicant intends to construct with fire-resistant materials which will help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to build a new two-family dwelling at premises located at 287 South Parkway, Block 59.03, Lot 15, be and the same is hereby approved and the variances for lot width, lot area, lot coverage, rear yard setback, left side yard setback, right side yard setback, and combined side yard setback variances 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 VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr STEPHEN CHRISTOPHER.

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

MEETING OF MARCH 1, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JANE COLEMAN
for premises known as: 23 Heights Road, Block 50.10, Lot 14
be and the same is hereby: GRANTED left side yard setback and combined side yard setback variances for a rear yard addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 1, 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 variance approval as aforesaid for a rear yard addition to premises located at 23 Heights Road, Block 50.10, Lot 14, which premises are located in a RA2 zone; and

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

- a. The applicant proposes a rear addition to the subject premises;
- b. The left side yard proposed is 4.43 feet where 6 feet is required;
- c. The combined side yard setback requirement is 16 feet, and the applicant is proposing 12.33 feet;
- d. The applicant has an existing, nonconforming lot width and area;
- 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 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 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 rear yard addition at premises located at 23 Heights Road, Block 50.10, Lot 14, be and the same is hereby approved and the left side yard setback and combined side yard setback variances 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 ROY NOONBURG.

Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.

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