

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

ABSENT AND EXCUSED: 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 Louis DeStefano, seconded by Comr Stephen Christopher, the Minutes of the February 22, 2017, special meeting were adopted with the unanimous approval of the entire Board.

Upon motion made by Comr Stephen Christopher, seconded by Comr Louis DeStefano, the Minutes of the March 1, 2017, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

1. 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 N.J.S.A. 40:55D-70d(1)
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. 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 the April 19, 2017, meeting of the Board.

2.	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.

NEW HEARINGS

1. **PASSAIC CLIFTON COMMUNITY KOLLEL**
Use **CONGREGATION, 411 Main Avenue, Block**
Variance; 59.03, Lot 17 – B-B – Applicant proposes to
Variances convert an existing chiropractor’s office to a
 Rabbinical Study/School Center. The lot also
 contains an attached two-family structure.
 Following variances are required:
 1) Conditional use variance for School (Existing
 lot does not meet bulk requirements).
 2) Use variance required for more than one use
 on a lot (school and residential use, prior use
 was a two family house and an office).
 3) 9 parking spaces supplied and 16 required
 (1 staff, 11 student, 4 residential).
 4) Lot coverage proposed at 27.52 where a
 maximum of 20% is permitted.
 5) Parking spaces proposed at 9’ x 18’ where
 9’ x 19’ are required.
 6) Site plan approval required.
 7) Such other variances as may be required.

Thomas P. DeVita, Esq. , with offices at 452 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicants. Present and sworn on behalf of the applicant were the following: Rabbi Chaim Krause of 147 Marietta Avenue, Passaic, New Jersey; and Frank D. Mileto of 14 Beaver Brook Drive, Long Valley, New Jersey.

The following objectors were present, some of whom were sworn: Lois Doremus, 415 Main Ave., Mary Sadrakula, Dwasline Road; Carol Fiola, Dwasline Road; Henry

Cholewczynski, Phyllis Place, Clifton; and Donald Chappa, 314 S. Parkway (all information typed as handwritten on sign-in sheet).

Mr. DeVita stated that the applicant has submitted an application for use variance, conditional use variance, and bulk variances to convert a portion of the existing building to a Rabbinical Study facility or religious school at premises located at 411 Main Avenue; that the lot in question has a two-family structure which is not part of the application; that there will be a one-story addition proposed to the rear of the two-family dwelling; that the proposal requires a use variance for more than one use; that 16 parking spaces are required, 9 are supplied, and the size of the parking stall size is 9- by 18-feet where 9- by 19-feet is required.

Rabbi Chaim Krause testified that the proposed facility will be for married men to study the bible between the ages of 25 and 35; that there will be two sessions a day; that there are no classes; that it is a training center for rabbi's; that the school will meet six days a week; that the location of the school is around the corner from his house; that there will be approximately 10 to 15 individuals attending the training center; that a minimum of three years and normally five years is the period of study; that the two-family is not part of the application.

On cross-examination by Mary Sadrakula, an issue was raised concerning the affidavit of service; a question was raised concerning the definition of school and the number of parking spaces provided by the applicant which included one handicap space.

Donald Chappa inquired as to the Rabbinical study facility on Rutherford Boulevard and whether there was any connection with the within application.

Henry Cholewczynski raised the issue of where children who occupy the two-family dwelling will play.

Lois Doremus was concerned about the inadequate parking and the interior of the structure which housed two bathrooms and a coffee station.

Frank D. Mileto testified as an architect and planner and stated that the facility presently is a two-family dwelling with a chiropractor's office; that the study group is a unique group; that the group offers the same benefits as a school; that while a use

variance is required, the use is mundane; that there will be no noise, no negative impacts; that it is an ideal location for quiet study; that the proposal is less intense than permitted uses; that it is particularly suited for the proposed use; that Passaic County Planning Board approval is required.

Chrmn Zecchino referred to the report of Gregory Associates dated March 13, 2017, and requested Mr. Mileto to respond to the general comments raised by the planning consultant concerning the bulk table, engineering drawings, parking calculations, size of refuse area, driveway on the south side of the property, dimensions of the parking spaces, and parking aisle width. Mr. Mileto responded that a revised site plan will be submitted to include all the correct data.

Chrmn Zecchino also noted for the record that the Board will request a report from Neglia Engineering, a Fire Dept. report has been requested, and the revised plan should be forwarded to Planning Consultant Gregory for her comments.

Chrmn Zecchino also noted that the lease agreement between the applicant and the owner of the premises must be reviewed.

On cross-examination by Mary Sadrakula, Mr. Mileto testified that if the property is vacant, it would not be designed for a school; that nowhere on the site can children play.

Ms. Sadrakula stated that the applicant has shown no hardship and that any hardship is a self-created hardship. Ms. Sadrakula also noted that there are two bathrooms on the site; that there are two coat rooms.

Lois Doremus was concerned about the parking for the tenants who occupy the premises.

At this point in the hearing, Chrmn Zecchino continued the matter until the regular meeting of the Board on April 19, 2017, pending receipt of the revised site plan and the reports indicated as above.

2.	DARKO RALOSKI, 105 Van Riper Avenue,
Use	Block 3.05, Lot 2 – RB2 – Applicant proposes
Variance;	to add a dormer to the attic, install a basement

Variance bathroom and create multiple rooms in the basement. The following variances are required:

- 1) Three story structure proposed where 2 ½ are permitted.
- 2) Three fixture bath proposed in the basement where bathrooms are not permitted.
- 3) Two finished rooms proposed in basement where one finished room is permitted.

The applicant, residing at 105 Van Riper Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests variance approval to add a dormer to the attic, install a basement bathroom, and create multiple rooms in the basement at the subject premises; that he works as an asbestos worker and that the shower in the basement is a necessity for him when he returns from work.

The applicant further testified that he requires a variance since a three-story structure is proposed where 2 ½ stories are permitted; that the three fixture bathroom proposed in the basement is not permitted; that he also proposes two finished rooms in the basement where one room is permitted.

The applicant further testified that he has a shower and a toilet presently in the basement which was installed by him.

Several of the Commissioners commented that that hardship experienced by the applicant is a personal hardship and not a zoning hardship.

After a review of the testimony Comr Roy Noonburg moved to deny the application, citing the fact that the applicant has shown no hardship. Comr Noonburg also noted that the shower presently in the basement and the toilet must be removed. Comr Noonburg instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice-Chrmn Gerard Scorziello who commented that any hardship is a personal hardship. 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 denied in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

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 Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Louis DeStefano, Stephen Christopher, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of YESHIVA KTANA OF PASSAIC, INC. 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 at 288, 292, 296, 300, and 304 South Parkway, Block 59.01, Lots 8, 11, 13, 15, and 17, was adopted. R-B2

2. Upon motion made by Comr Roy Noonburg, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ABBAS MALEK, LLC for 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 at 405 Piaget Avenue (Route 46) and 30-34 Montgomery Street, Block 18.01, Lots 1, 13, and 14, was adopted. B-D

3. Upon motion made by Comr Louis DeStefano, seconded by Comr Daniel Trenk, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of GIUSEPPE MOSCA for rear yard setback variance for a rear deck at 36 Lois Avenue, Block 81.12, Lot 17, was adopted. RA3

4. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of EROL PESOCAN for a front yard setback variance for a front stoop at 120 Fordham Road, Block 26.04, Lot 26, was adopted. RA3

5. The Resolution GRANTING the application of EKATERINA BYKOVA for use variance, conditional use variance, and parking variance for a dance studio and school at 227 Lakeview Avenue, Block 2.11, Lot 67, was held pending receipt of filed easement. B-C

6. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Stephen Christopher, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Stephen Christopher, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ALEXANDRA NUNEZ-GUERRERO for 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 at 287 South Parkway, Block 59.03, Lot 15, was adopted. RB2

7. Upon motion made by Comr Roy Noonburg, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Michael Molner, Louis DeStefano, Stephen Christopher, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JANE COLEMAN for left side yard setback and combined side yard setback variances for a rear yard addition at 23 Heights Road, Block 50.10, Lot 14, was adopted. RA2

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 15, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: **DARKO RALOSKI**
for premises known as: **105 Van Riper Avenue, Block 3.04, Lot 2**
be and the same is hereby: **DENIED** use and bulk variances for a three-story structure, three-fixture bathroom in basement, and two finished rooms in basement.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 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 deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval as aforesaid to add a dormer to the attic, install a basement bathroom, and create multiple rooms in the basement at premises located at 105 Van Riper Avenue, Block 3.05, Lot 2, which premises are located in an RB2 zone; and

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

- a. The applicant proposes to add a dormer to the attic, install a basement bathroom, and create multiple rooms in the basement at the subject premises;
- b. The applicant is an asbestos worker, however, any hardship that he has testified to is a personal hardship;
- c. That the applicant has failed to show any hardship with respect to zoning;
- d. The applicant has failed to satisfy the positive and negative criteria required for the grant of a use variance;
- e. The detriments of the application outweigh the benefits, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will not be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that the proposal will be detrimental to the

health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a dormer to the attic, installation of a basement bathroom, and creation of multiple rooms in the basement at premises located at 105 Van Riper Avenue, Block 3.05, Lot 2, be and the same is hereby disapproved and the use variances and bulk variance be and the same are hereby denied; and

BE IT FURTHER RESOLVED that the shower and toilet presently in the basement shall be removed.

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.