

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, May 3, 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, LOUIS DE STEFANO, STEPHEN CHRISTOPHER, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMRS DANIEL TRENK AND 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 April 19, 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 June 7, 2017, meeting.

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.

3.	MOUNT PROSPECT PARK, LLC,
Use	62-66 Mt. Prospect Avenue, Block 36.01,
Variance;	Lot 11.01 – B-A – Preliminary and final
Variances	site plan approval and variances. This application is to demolish the existing one (1) story building and remove all concrete curbing, concrete sidewalks, fencing, asphalt, and fencing and to permit construction of a three (3) story residential building consisting of one (1) bedroom units, and an additional three (3) story residential building consisting of one (1) bedroom and two (2) bedroom units. Applicant proposes associated site improvements consisting of asphalt parking areas, concrete curbing, concrete sidewalks, ADA curb ramps, concrete patios, walls, drainage, utilities, landscaping, and lighting. In addition, the applicant proposed two (2) shared parking easements and one (1) water utility easement. An application has been filed for the following variances in regard to this matter: -Use – applicant proposes a residential use in the B-A zone, where such uses are not listed as being permitted; -Rear Yard Setback – 10.83 feet proposed,

- whereas 30 feet is required;
- Building Height – 3 stories/38.8 feet is proposed whereas 2 stories/30 feet is permitted;
- Parking – applicant’s plan proposes parking spaces for the proposed residences not in compliance with the minimum required by the City’s Code;
- and any or all other variances and/or waivers as may be deemed necessary by the Zoning Board for the processing of this application;
- Parking Lot Landscaping – applicant cannot meet the Code requirement of 20 square feet of interior parking lot landscaping for each parking space.

At the request of the attorney for the applicant, this matter was continued until the June 7, 2017, meeting of the Board.

NEW HEARINGS

- 1. THE CATHOLIC COMMUNITY OF SAINT
Use BRENDANS AND SAINT GEORGE,
Variance; 155 East 1st Street, Block 1.06, Lot 1
Variances;--RB1—Applicant wishes to subdivide

Subdivision what was formerly the Parish House from the parking lot for the Church and school. Use variance required as a parking lot is not permitted as a principal use. Proposed lot 1.02 has existing nonconforming front yard setback and rear yard garage setback. Existing garage is 4' from proposed right side lot line. Such other variances as may be required by law.

A. William Sala, Jr., Esq., with offices at 179 Randolph Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was The Rev. Julius Flores of 154 East First Street, Clifton, New Jersey. There were no objectors.

Mr. Sala offered into evidence which was marked "A-1" the Affidavit of Publication.

Mr. Sala stated that the applicant seeks subdivision approval of the dwelling house previously known as the parish house from the existing parking lot for the Church and school at the subject premises; that a use variance is required because a parking lot is not a permitted use as a principal use; that as a result of the subdivision, the proposed lot has an existing, non-conforming front yard setback and rear yard garage setback; that the existing garage is 4 feet from the proposed right side lot line.

Rev. Flores testified that the parking lot is used for the Church and the school; that during school hours, it is used for recreational purposes; that the subdivided property from the parking lot will be sold.

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 minor subdivision, use variance, and bulk variances for the subdivided lot, subject to compliance with all requirements of the Engineering Department of the City of Clifton. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Michael Molner, 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. RAMON INOA, 26 East Clifton Avenue,
Variances Block 3.01, Lot 16 —RB2—Variances
required for a second floor rear deck
already constructed: 1) Lot coverage
proposed at 43.7% where a maximum of
25% is permitted. 2) Right side yard
proposed at 3' and left side yard at 7'
where 12' each is required. 3) Combined
side yards proposed at 10' where 24' is
required. 4) Rear yard setback to stair
proposed at 25' and to deck at 31' where
35' is required.

The applicant, residing at 26 East Clifton Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that she requests variance approval for a second floor rear deck which has already been constructed; that the lot coverage requirement is 25 percent and he is requesting 43.7 percent; that the right side yard setback is proposed at 3 feet and the left side yard setback is proposed at 7 feet where 12 feet each is required; that the combined side yard requirement is 24 feet, and he is proposing 10 feet; that the rear yard setback to the stairs proposed is 25 feet and to the deck is 31 feet where 35 feet is required; that he retained the services of a contractor who installed the second floor rear deck without obtaining the necessary

approvals from the Building Department of the City of Clifton; that there are similar-type decks in the neighborhood several houses away; that the purpose of the deck is for safety.

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 for approval, citing the fact that there are similar-type decks in the neighborhood. The motion was seconded by Comr Roy Noonburg. Voting in the affirmative were Comrs Michael Molner, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting in the negative were Comrs Stephen Christopher and George Foukas, who cited the fact that the deck is too large for the premises. 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 a decision is based.

3. **ANGEL CLASE**, 143 Roosevelt Avenue,
Use Block 1.10, Lot 10 —RB1—Use variance
Variance required for a three fixture bathroom
 (water closet, sink, stall shower) in the
 basement. Basement has a rear exit
 to the yard.

The applicant and his wife, Lata Clase, residing at 143 Roosevelt Avenue, Clifton, New Jersey, were present and sworn. There were no objectors.

The applicant, through his wife acting as an interpreter, testified that a use variance is required for a three-fixture bathroom consisting of a water closet, sink, and stall shower; that the purpose of the bathroom is to permit the applicant, who is an asbestos worker, to be able to shower and clean himself before entering the inside of the home.

Chrmn Zecchino noted for the record that there is a rear exit to the yard; that the request made by the applicant creates the potential for an illegal apartment; while the applicant has a personal hardship, any variance approval would remain with the property.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to deny the application and instructed the Counsel Secretary to prepare the proper Resolution, citing the fact that the applicant may have a personal hardship but does not have a zoning hardship. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Michael Molner, 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 Comr Louis DeStefano, seconded by Comr Stephen Christopher, and affirmed by Comrs Louis DeStefano, Stephen Christopher, George Foukas, Vice-Chrmn Gerard Scorziello, and Mark Zecchino, the Resolution GRANTING the application of PASSAIC CLIFTON COMMUNITY KOLLEL CONGREGATION for use variance to permit a Rabbinical Study Facility, use variance for more than one use on the lot, parking space variance, lot coverage variance, and preliminary and final site plan approval at 411 Main Avenue, Block 59.03, Lot 17, was adopted. B-B

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 MAY 3, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: THE CATHOLIC COMMUNITY OF SAINT BRENDANS AND SAINT GEORGE

for premises known as: 155 East 1st Street, Block 1.06, Lot 1

be and the same is hereby: GRANTED a minor subdivision to subdivide the former parish house from the parking lot; use variance for a parking lot as a principal use; front yard setback, rear yard setback, and side yard setback variances for the new lot created.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, May 3, 2017. Said testimony along with 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 subdivision, use variance, and bulk variance approval as aforesaid to subdivide a lot from the parking lot and create a separate lot with variances for front yard setback, rear yard setback, and side yard setback and use variance for the parking lot as a principal use at premises located at 155 East 1st Street, Block 1.06, Lot 1, which premises are located in a RB1 zone; and

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

- a. The parking lot and former parish house are located on one lot;
- b. The applicant requests subdivision approval to separate the parish house on a separate lot which has a non-conforming front yard setback, rear yard setback, and side yard setback;
- c. A use variance is required since a parking lot is not permitted as a principal use;

d. The parking lot is utilized for the church and school which satisfies the special reasons for the grant of a use variance;

e. The parking lot will continue to provide parking for the church activities, school activities, and recreational activities of the school;

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 parking lot will continue to help promote the health, safety, and general welfare of the neighborhood;

(CONTINUED)

(CONTINUED)

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid to subdivide a lot from the parking lot and create a separate lot with variances for front yard setback, rear yard setback, and side yard setback and use variance for the parking lot as a principal use at premises located at 155 East 1st Street, Block 1.06, Lot 1, be and the same are hereby approved and the minor subdivision, use variances, and bulk variances be and the same are hereby granted subject to such further

governmental approvals as may be required by law and further subject to compliance with all requirements of the Engineering Department of the City of Clifton.

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.

MEETING OF MAY 3, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: RAMON INOA
for premises known as: 26 East Clifton Avenue, Block 3.01, Lot 16
be and the same is hereby: GRANTED variances for lot coverage, right side yard, combined side yards, and rear yard setback for a second floor rear deck.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, May 3, 2017. Said testimony along with 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 bulk variance approvals for a second floor rear deck at premises located at 26 East Clifton Avenue, Block 3.01, Lot 16, which premises are located in a RB2 zone; and

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

- a. The deck was previously built without proper authorization by a contractor;
- b. The lot coverage permitted is 25 percent, and the applicant is requesting 43.7 percent;
- c. The right side yard requested is 3 feet and the left side yard requested is 7 feet where 12 feet each is required;
- d. The combined side yard setback requirement is 24 feet, and the applicant is providing 10 feet;
- e. The applicant is deficient on the rear yard setback where the stairs are at 25 feet and the deck at 31 feet where 35 feet is required;
- f. That based upon the testimony of the applicant, there are similar-type decks located several houses away from the applicant's premises;
- g. That the purpose of the deck is for safety;
- 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 there are similar-type decks in the neighborhood; and

WHEREAS, the Board further finds that the proposal will help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a rear second floor deck at premises located at 26 East Clifton Avenue, Block 3.01, Lot 16, be and the same is hereby approved and the variances for lot coverage, right and left side yard setbacks, combined side yards, and rear yard setback 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 ROY NOONBURG.

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

MEETING OF MAY 3, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ANGEL CLASE
for premises known as: 143 Roosevelt Avenue, Block 1.10, Lot 10
be and the same is hereby: DENIED a use variance for a three-fixture bathroom consisting of water closet, sink, and stall shower in the basement.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, May 3, 2017. Said testimony along with 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 deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval for a water closet, sink, and stall shower in the basement at premises located at 143 Roosevelt Avenue, Block 1.10, Lot 10, which premises are located in a RB1 zone; and

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

- a. The applicant seeks approval as aforesaid, citing the fact that he is an asbestos worker, and the basement shower will help him remove any residue from his work effort;
- b. The plans show that the basement has a rear exit to the yard;
- c. The applicant's hardship is a personal hardship and not a zoning hardship;
- d. The applicant has not satisfied 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 since there is a potential for an illegal apartment in the basement; and

WHEREAS, the Board further finds that the applicant has not satisfied the negative criteria and will not promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a use variance for a three-fixture bathroom in the basement at premises located at 143 Roosevelt Avenue, Block 1.10, Lot 10, be and the same is hereby disapproved and the use variance be and the same is hereby denied.

Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr LOUIS DE STEFANO.

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