

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, October 18, 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, KEITH LA FORGIA, STEPHEN CHRISTOPHER, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

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

Upon motion made by Comr Louis DeStefano, seconded by Vice-Chrmn Gerard Scorziello, the Minutes of the October 4, 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 to the November 1, 2017, meeting of the Board.

2.	CLIFTON CHICKEN LLC d/b/a POPEYE’S
Use	LOUISIANA KITCHEN, 6 Main Avenue,
Variance;	Block 82.06, Lot 15 – P-MU – Use variance
Variances;	relief pursuant to N.J.S.A. 40:55D-70d,
Site Plan	bulk variance relief pursuant to N.J.S.A. 40:55D-70c and site plan approval.

The property is presently developed with a one-story commercial structure (currently unoccupied, previously utilized as a bank with drive-thru lanes) and accessory paved/parking areas. Per Chapter 461 of the City of Clifton Zoning Ordinance, restaurants with drive-through facilities or counter service is

not a permitted use in the zone.

The Applicant proposes to improve the property and utilize the existing structure as a dine-in and drive-thru restaurant. Accessory improvements (inclusive of façade improvements, site lighting, installation of exterior business signage, shrubs/planted areas, fencing repair, and parking area striping) are also proposed.

The applicant seeks the following variance relief from the Board:
use variance relief for the proposed restaurant and its associated drive-thru use, business signage/memo boards (use not permitted in zone); and bulk variance relief for the proposed front yard setback along Main Avenue (29.1' proposed, 35' required); improved lot coverage (77% proposed, 75% permitted); open space (23% proposed, 25% minimum required); parking setback in corner/side yard (1' proposed, 10' required); and parking setback in rear (2.4' proposed, 5' required). The applicant will also seek any

additional variances, waivers, interpretation
or relief that may be required by the Board
at the time of the public hearing.

This matter was continued by the Board to the November 1, 2017, meeting of
the Board.

3.

CARLOS SUAREZ & NELY ALTAMIRANO,
- Use

42 Paterson Avenue, Block 82.02, Lot 64
- Variance

-- RA3 – Applicant proposes a rear addition
on to an existing nonconforming two-family
home. A use variance is required for the
expansion of a nonconforming use. A new
detached garage is also proposed at 440
sq. ft. where a maximum of 300 sq. ft. is
permitted.

This matter was previously continued to the November 1, 2017, meeting of the
Board.

4.

TYTEN 1 LLC, 53 Clifton Boulevard,
- Use

Block 31.06, Lot 20 – M-2 –
- Variance;

Preliminary and final site plan

Site Plan;	approval and use variance to permit
Variance	use of property for the storage and servicing of school buses and a bulk variance to permit parking in the required side and rear yards' setback areas.

Chrmn Zecchino read into the record a communication from Frank A. Carlet, Esq., the attorney for the applicant, requesting that the matter be dismissed without prejudice. Thereupon, Comr Louis DeStefano moved to have the matter dismissed without prejudice. The motion was seconded by Vice-Chrmn Gerard Scorziello with the unanimous approval of the entire Board. The matter was dismissed without prejudice 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.	RC FITNESS LLC T/A CRUNCH FITNESS
Use	895 Paulison Avenue, Block 20.06,
Variance	Lot 1, 7, 8, 9 & 10 – B-C – Applicant proposes to operate a gym which requires a use variance for the use and for mixed use on the site.

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn were Rafael Cuellar, 358 Grove Street, Clifton, New Jersey; and William J. Martin of 25 Boulevard, Westwood, New Jersey, a planner and architect. There were no objectors.

Mr. Peterson offered into evidence which was marked “A-1’ an exhibit prepared by Mr. Martin consisting of ten pages showing an aerial view of the premises, the floor plan, elevations, photographs of adjacent properties as well as the site.

Mr. Martin testified that the applicant proposes to occupy a portion of the existing building at the subject premises with a fitness center; that the property is in a B-C general business zone and is irregular in shape; that a D-1 use variance is requested since the use is not permitted in the zone; that the applicant proposes to occupy approximately 50 percent of the existing building, or a total of 18,550 square feet; that no site improvements are proposed; that the site contains an existing commercial building that was formerly a supermarket and now is partially occupied by ShopRite Wines & Spirits; that the site is suitable for the proposed use and will serve the public good; that the proposal satisfies several goals of the Master Plan and satisfies the positive and negative criteria required for the grant of a use variance.

The Board had the benefit of a report from its planning consultant, Gregory Associates, dated October 2, 2017, and report of Neglia Engineering dated October 17, 2017.

In reviewing the Neglia Engineering report, Mr. Peterson stated, on behalf of his client, that the applicant would comply with all the recommendations set forth therein with the exception of Paragraph 2.11 which recommends that all existing cart return areas located on the site be removed.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to approve the application with the applicant complying with all recommendations set forth in the Neglia Engineering report dated October 17, 2017, with the exception of Item 2.11 and instructed the Counsel Secretary to prepare the proper Resolution for grant of the use variance and application. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete
testimony presented to the Board and

upon which this decision is based.

6. DENIZ BURTON, 442 Clifton Avenue,
Use Block 12.02, Lot 20 – BA1 – Applicant
Variance; proposes to use the existing structure
Variances as a two-family dwelling. Structure was
 previously used as a residential home,
 and was converted to office for a
 period of time, applicant has been
 unable to rent out the building as an
 office. No structural changes proposed.
 Variances required as follows:
 1) 7500 sq. ft. lot area required and
 6325 sq. ft. provided. 2) 50’ lot width
 and 75’ required. 3) 11.35’ front yard
 setback and 25’ required. 4) Left side
 yard is 10.2’ and 12’ required.

A. William Sala, Jr., Esq., with offices at 179 Randolph Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Deniz Burton of 4 Sunny Knolls Court, Wayne, New Jersey. There were no objectors.

Mr. Sala stated that the applicant proposes to use the existing structure as a two-family dwelling; that the structure was previously used as a residential home and was subsequently converted to an office for a period of time; that the applicant has been unable to rent out the building as an office and is now requesting that it be returned to its former use as a two-family dwelling; that there will be no structural changes proposed.

Deniz Burton testified that she requests approval to convert the office use back to a two-family dwelling; that the site exists, and there are other two-family dwellings in the area.

Mr. Sala stated that the applicant is seeking a use variance since the premises are located in a BA1 zone and bulk variances for lot area where 7500 square feet is required and 6325 square feet is provided; lot width where 50 feet is provided and 75 feet is required for a two-family dwelling; front yard setback where 25 feet is required and 11.35 feet is provided; and left side yard setback where 12 feet is required and 10.2 feet is provided. All the bulk variances are pre-existing.

Chrmn Zecchino stated that in order for the premises to have the look of a two-family dwelling, the macadam in the front of the premises and in the rear should be pulled up and grass planted. The applicant stipulated that she would keep one driveway and pull up the macadam as requested by the Board.

Thereupon, Vice-Chrmn Gerard Scorziello moved to grant the application with the stipulation that the one driveway remain and the macadam in the other driveway and in the rear be pulled up and grass planted accordingly. Counsel Pogorelec was instructed to prepare the proper Resolution. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

7.	UNITED AMERICAN MUSLIM
Use	ASSOCIATION INC., 492 Clifton
Variance;	Avenue, Block 12.01, Lot 24
Variances	-- B-C -- Applicant seeks to eliminate one apartment and create a study

area for cultural and enrichment
programs for young students:
1) Conditional use variance
required (lot and building do not
meet conditional use requirements.
2) Use variance required for mixed
use building (residential on second
floor) accessory use 3) Bulk variances
for existing conditions including
a) parking within front yard setback;
b) parking isles deficient; c) parking
within rear yard setback; d) parking
stalls deficient in size. 4) Such other
variances as may be required.

Thomas P. DeVita, Esq., with offices at 452 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Jacob Solomon, an architect, with offices at 1425 Plaza Road, Fairlawn, New Jersey; George Wheatle Williams, 105 Grove Street, Clifton, New Jersey, a planner; and Kaya Hice of 79 Chamber Avenue, Mystic, New York, a representative of the applicant. There were no objectors.

Mr. DeVita stated that the applicant in 2014 did receive approval from the Board to convert a funeral parlor to a house of worship and a mixed use building; that the applicant now proposes to renovate and perform alterations on the existing structure which will include converting the portion of the existing structure formerly occupied with apartments to an expansion of the house of worship for cultural and religious enrichment program classes.

Mr. Solomon qualified as an architect and testified that the applicant proposes to make alterations in the basement which includes the enlargement of the kitchen, elimination of the storage room in the basement, expansion of the meeting room in

the basement and convert it into a dining room for men; reduction of the mechanical room and eliminate other spaces to create a dining room for women; installation of a playroom in the basement; and convert the crawl space into a walk-in fridge and freezer. With respect to the first floor, the applicant will demolish some of the walls and reconfigure some of the spaces. With regard to the second floor, the applicant proposes to eliminate the three apartments and reconfigure the walls to construct a visiting clergy room, an Iman room; a bedroom; three classrooms; a lounge; a recreation room; an accessible toilet room; and a washroom containing several toilets, showers, sinks, and laundry.

Ms. Hice, an officer of the applicant, testified that the proposed alterations will benefit the religious community; that the proposal is to promote the educational and cultural and religious activities of the group; that the number of people who come to the premises will be limited; that there are presently approximately 25 families; that there are approximately 50 to 60 people who attend the premises; that at any one time, there may be a maximum of 30 to 35 people present.

Comr Noonburg stated that the maintenance of the premises and the posted signs are unacceptable; that it appears that the applicant has outgrown the use of the premises.

Due to other issues raised by the Board, Chrmn Zecchino continued the matter until the November 15, 2017, meeting of the Board in order for the applicant to furnish more specific answers to questions raised by the Board members. Thereupon, this matter was unanimously continued by the Board until the November 15, 2017, meeting of the Board.

8. **GARDEN STATE REALTY &**
Variances **INVESTMENT INC., 139 Ackerman**
 Avenue, Block 4.10, Lot 7 – RB3 –
 Bulk variances needed for minimum
 lot width, minimum side yard,
 total side yards and lot coverage.
 Applicant seeks to eliminate office
 use on the first floor and replace with

an apartment which is consistent with
other uses in the building and allowable
under zoning ordinances of Clifton.

Thomas P. DeVita, Esq., with offices at 452 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Frank D. Mileto of 14 Beaver Brook Drive, Long Valley, New Jersey, an architect and planner; and George Solimene of 77 Cutler Road, Franklin Lakes, New Jersey. There were no objectors.

Mr. DeVita stated that the applicant seeks to eliminate an office use on the first floor of the subject premises and replace it with an apartment which is consistent with the other uses in the building and permitted under the zoning ordinance; that the applicant seeks approval for bulk variances for minimum lot width, minimum side yard, total side yards, and lot coverage.

Mr. Mileto stated that the subject premises is located in an RB3 zone which permits multi-family dwellings; that the applicant proposes to convert the first floor which presently houses offices to three residential units comprised of 2 one-bedroom apartments and 1 two-bedroom apartment; that the proposed conversion from an office use to a dwelling will make the structure a conforming multi-family dwelling; that there are 14 parking spaces at the site; that the variances requested are the side yard setback which requires 10 feet and 3.5 feet presently exists; that the lot coverage permitted is 25 percent and the applicant is seeking 27 percent which is an existing condition; that there is sufficient parking for the three apartments that presently exist at the site along with the proposed three apartments for a total of six apartments; that in his opinion, the macadam on the west side of the property should remain since the site operates in an efficient manner.

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 bulk variances for side yard setback and lot coverage. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, George Foukas, Roy

Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

NEW HEARINGS

1. **RAFAEL CUELLAR**, 358 Grove Street,
Variances Block 39.04, Lot 16 – RA1 – Applicant
proposes a driveway in front of a new
home. Variances required for a
driveway in front of a home not serving
a garage and for 50’ width (at widest
point) where a maximum of 30’ is
permitted. Driveway already in place.

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Rafael Cuellar and Maryanne Cuellar, residing at 358 Grove Street, Clifton, New Jersey. There were no objectors.

Mr. Peterson stated that the applicant proposes a driveway in front of a new home at the subject premises; that variances are required for a driveway in front of a home not serving a garage and for 50 foot width at its widest point where a maximum 30 feet is permitted; that a similar type expansion of the driveway was approved by the Board recently for premises on Grove Street.

There was discussion concerning vehicles entering the site and approaching the front of the premises instead of serving the garage. It was suggested that a 5 foot

planter be installed in the middle of the driveway to alleviate the concerns of the Board.

Thereupon, Vice-Chrmn Gerard Scorziello moved to grant the application with the stipulation that a 5 foot planter be installed in the middle of the driveway at the subject premises and further instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Comr Stephen Christopher. Voting in the affirmative were Comrs Louis DeStefano, Keith LaForgia, Stephen Christopher, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

2. **E CUBE 240 LLC & AMERICAN**
Use **ANALYTICAL ASSOCIATION, LLC,**
Variances; 247/245 Parker Avenue, Block 4.16,
Variances Lot 33/31 – PD-1 – Applicant proposes
to renovate and build additions to the
existing appliance store and Bank
building to create a four-story mixed use
property. Applicant also proposes to
merge lots 31 and 33. Building will
consist of 3 retail stores on the first
floor and 29 apartments. The following
variances are required:
1) Use variances required for mixed use
and residential in a PD-1 Zone.
2) Rear yard setback proposed at 0'
where 10' is required.
3) Lot coverage proposed at 100%
where 90 is permitted.

- 4) Building height proposed at 40'7" where 30' is permitted.
- 5) 4 stories proposed where 2 stories are permitted.
- 6) Such other variances as may be required.

Bennett Wasserstrum, Esq., with offices at 3 Botany Village Square, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn were Frank D. Mileto of 14 Beaver Brook Drive, Long Valley, New Jersey; and Emanuel Hedvat of 284 Sheffield Street, Mountainside, New Jersey. There were no objectors.

Mr. Wasserstrum stated that the applicant proposes to renovate and build additions to the existing appliance and bank building to create a four-story mixed use building; that the applicant proposes to merge lots 31 and 33; that the building will consist of three retail stores on the first floor and 29 apartments above the premises.

Mr. Mileto testified that the applicant proposes to merge lots 31 and 33 and renovate and build an addition to the existing bank building and appliance store to create a four-story mixed use property; that there will be three retail stores on the first floor and 29 apartments; that a use variance is required for mixed use and residential use in a PD-1 zone; that the rear yard setback requirement proposed is 0 feet where 10 feet is required; that the lot coverage permitted is 90 percent and the applicant is requesting 100 percent; that the building height proposed is 40 feet 7 inches where 30 feet is permitted; that the applicant proposes 4 stories where 2 stories are permitted; that there will be no off-street parking provided.

Chrmn Zecchino stated that he is astounded that the applicant has proposed a 4-story-structure where recently the Board reviewed a similar application for a 4-story-structure and the Board determined that the height of the structure is totally unacceptable; that the applicant proposes to use 100 percent of the property and provide no off-street parking which is an unsatisfactory arrangement.

Chrmn Zecchino noted that a report was not received from the planning consultant and stated that the matter would be continued to the December 6, 2017, meeting of the Board with a request for a report from the planning consultant. Thereupon, the matter was set for rehearing on December 6, 2017.

RESOLUTIONS

Chrmn Mark 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 Michael Molner, Louis DeStefano, and Vice-Chrmn Gerard Scorziello, the Resolution GRANTING the application of AURELIJE ZOVKO for right side yard and combined side yard variances for an addition to the existing attached garage and rear left side addition at 133 Robin Hood Road, Block 52.04, Lot 4, was adopted. RA1

2. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MARCIN FERENC for front yard setback variance to enclose and add a roof to an open front porch at 38 Urma Avenue, Block 40.05, Lot 34, was adopted. RA3

3. Upon motion made by Comr Louis DeStefano, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOSEPH M. PONTE for front yard setback variance to expand a front porch and curb cut variance to expand driveway at 38 Chatham Terrace, Block 63.01, Lot 58, was adopted. RA1

4. Upon motion made by Comr Louis DeStefano, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of BRUCE SUFIAN for rear yard setback variance for a

second floor addition at 55 Annabelle Avenue, also known as 79 Lorrie Lane, Block 71.04, Lot 24, was adopted. RA3

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Chrmn Mark Zecchino called the Board's attention to the fact that a special meeting has been scheduled for UPPER MONTCLAIR COUNTRY CLUB for Wednesday, November 29, 2017; that Neglia Engineering has recused itself from reviewing the application; that the Board proposes that Louis Slaby, a professional engineer, be designated to review the application and a Resolution appointing him be submitted accordingly. Thereupon, Vice-Chrmn Gerard Scorziello moved to engage the services of Louis Slaby for this singular application. The motion was seconded by Comr Louis DeStefano with the unanimous approval of the entire Board. Thereupon, Louis Slaby was designated as the consulting engineer for the UPPER MONTCLAIR COUNTRY CLUB project.

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF OCTOBER 18, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: TYTEN 1 LLC

for premises known as: 53 Clifton Boulevard, Block 31.06, Lot 20

be and the same is hereby: DISMISSED WITHOUT PREJUDICE to permit use of the property for the storage and servicing of school buses.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 20, 2017. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

At the request of the attorney for the applicant, this matter was dismissed without prejudice.

Resolution moved by: Comr LOUIS DE STEFANO.

Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.

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

MEETING OF OCTOBER 18, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: RC FITNESS LLC T/A CRUNCH FITNESS for premises known as: 895 Paulison Avenue, Block 20.06, Lot 1,7,8,9,10 be and the same is hereby: GRANTED use variance approval to operate a gym on a portion of the existing building and for mixed use on the site.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 use variance approval as aforesaid to occupy a portion of the existing building for a fitness center at premises located at 895 Paulison Avenue, Block 20.06, Lot 1, 7, 8, 9, and 10, which premises are located in a B-C zone; and

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

- a. The site in question contains an existing commercial building that was formerly a supermarket and now is partially occupied by a ShopRite Wines & Spirits;
- b. The applicant proposes to occupy a portion of the existing building with a fitness center; that the proposed gym or fitness center will occupy 50 percent of the existing building, or a total of 18,550 square feet;
- c. The applicant proposes no site improvements;
- d. Based upon the testimony of the applicant's expert planner, the applicant has satisfied the positive and negative criteria required for the grant of a use variance;

e. The proposal does promote several goals of the Master Plan as testified to by the planner;

f. The Board has reviewed the report of Gregory Associates dated October 2, 2017, and Neglia Engineering dated October 17, 2017;

g. The site is suitable for the proposed use;

h. The benefits of the application outweigh the detriments;

i. The applicant has shown sufficient hardship to justify the approval of the application; and

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

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

(CONTINUED)

(CONTINUED)

NOW THEREFORE, BE IT RESOLVED that the application to operate a gym or fitness center at premises located at 895 Paulison Avenue, Block 20.06, Lot 1, 7, 8, 9, and 10, be and the same is hereby approved and the use variances for a mixed use on the site be and the same is hereby granted subject to such further governmental approvals as may be required by law **SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL, IF REQUIRED AND WITH THE STIPULATION THAT THE APPLICANT COMPLY WITH ALL RECOMMENDATIONS SET FORTH IN THE NEGLIA ENGINEERING ASSOCIATES REPORT DATED OCTOBER 17, 2017, EXCEPT FOR PARAGRAPH 2.11 WHICH STATES THAT THE APPLICANT REMOVE ALL EXISTING CART RETURN AREAS LOCATED ON-SITE.**

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 LOUIS DE STEFANO.

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

MEETING OF OCTOBER 18, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: **DENIZ BURTON**

for premises known as: **442 Clifton Avenue, Block 12.02, Lot 20**

be and the same is hereby: **GRANTED** use variance and bulk variances for lot area, lot width, front yard setback, and left side yard setback to convert an office to a two-family dwelling.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 use variance approval as aforesaid to convert an office use to a two-family dwelling at premises located at 442 Clifton Avenue, Block 12.02, Lot 20, which premises are located in an BA1 zone; and

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

- a. The premises located at 442 Clifton Avenue was previously used as a residential home and subsequently converted to an office for a period of time;
- b. The applicant now requests approval to revert the office use and allow the premises to be a two-family dwelling;
- c. The lot area requirement is 7,500 square feet, and 6,325 square feet is provided;
- d. The lot width requirement is 75 feet, and the applicant is providing 50 feet;
- e. The front yard setback requirement is 25 feet, and the applicant is providing

11.35 feet;

f. The left side yard setback requirement is 12 feet, and the applicant is providing 10.2 feet;

g. All the deficiencies are pre-existing, and the applicant has shown sufficient hardship to justify the grant of the bulk variances;

h. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;

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

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

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

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NOW THEREFORE, BE IT RESOLVED that the application for a two-family dwelling at premises located at 442 Clifton Avenue, Block 12.02, Lot 20, be and the same is hereby approved and the use variance and bulk variances be and the same are hereby granted subject to such further governmental approvals as may be required by law subject to Passaic County Planning Board approval, if required; and subject to the following stipulation:

1. That the applicant keep one driveway at the premises and pull up the macadam in the front and in the back and plant grass accordingly.

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 KEITH LA FORGIA.

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

MEETING OF OCTOBER 18, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: GARDEN STATE REALTY & INVESTMENT INC. for premises known as: 139 Ackerman Avenue, Block 4.10, Lot 7 be and the same is hereby: GRANTED bulk variances for pre-existing side yard setback and lot coverage to convert an office use on the first floor to three residential apartments.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 bulk variance approval as aforesaid to convert office use on the first floor and replace with three residential apartments at premises located at 139 Ackerman Avenue, Block 4.10, Lot 7, which premises are located in an RB3 zone; and

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

- a. The applicant requests approval to convert office use on first floor to three residential apartments;
- b. The premises are located in an RB3 zone which permits multi-family dwellings;
- c. There are three apartments presently existing at the site, and the proposal calls for conversion of the office use to 2 one-bedroom apartments and 1 two-bedroom apartment on the first floor, for a total of six residential apartments;
- d. That the conversion will permit the structure to be a conforming multi-family

dwelling;

e. That bulk variances are required for minimum side yard and lot coverage which are pre-existing at the site;

f. The applicant has shown sufficient hardship to justify the grant of the variances requested;

g. 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 non-conforming office use is eliminated and is replaced by conforming residential three apartments; and

WHEREAS, the Board further finds that based upon the testimony of the planner, that there is suitable parking provided in the amount of 14 spaces for six apartments which will help promote the health, safety, and general welfare of the neighborhood;

(CONTINUED)

(CONTINUED)

NOW THEREFORE, BE IT RESOLVED that the application to eliminate office use on first floor and replace with three residential apartments which is in compliance with the zone ordinance, for a total of six residential apartments at the site, at premises located at 139 Ackerman Avenue, Block 4.10, Lot 7, be and the same is hereby approved and the bulk variances for side yard setback where 10 feet is required and 3.5 feet is proposed and lot coverage where 25 percent is permitted and 27 percent is proposed, 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 GEORGE FOUKAS.

Seconded by: Comr KEITH LA FORGIA.

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

MEETING OF OCTOBER 18, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: RAFAEL CUELLAR

for premises known as: 358 Grove Street, Block 39.04, Lot 16

be and the same is hereby: GRANTED variance for a driveway in front of a home not serving a garage 50 feet in width.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 has erected a new home and requests variance approval for a driveway in front of a home not serving a garage with 50 feet in width at premises located at 358 Grove Street, Block 39.04, Lot 16, which premises are located in an RA1 zone; and

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

- a. The applicant has erected a new home at the subject premises;
- b. The applicant requests approval for a variance for a driveway in front of a home not serving a garage;
- c. The applicant requests approval for a 50-foot-wide driveway where a maximum of 30 feet is permitted;
- d. The applicant has shown sufficient hardship to justify the grant of the variances 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 that the stipulation imposed that there be a 5-foot planter installed in the middle of the driveway will help promote the health, safety, and general welfare of the site and the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a driveway in front

of a new home that does not serve a garage and for a 50 feet width driveway at premises located at 358 Grove Street, Block 39.04, Lot 16, be and the same is hereby approved and the variances for driveway in front of a home not serving a garage and driveway width be and the same is hereby granted subject to such further governmental approvals as may be required by law **SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL, IF REQUIRED; AND WITH THE STIPULATION THAT THE APPLICANT INSTALL A 5-FOOT PLANTER IN THE MIDDLE OF THE DRIVEWAY.**

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

MEETING OF OCTOBER 18, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: n/a

for premises known as: n/a

be and the same is hereby: n/a

BE AND IT IS HEREBY RESOLVED that the Clifton Zoning Board of Adjustment hereby appoints:

(1) Louis R. Slaby, PE, PP, of Slaby Engineering Associates, Inc., 6 Elder Place, Denville, NJ 07834, as its Engineer and Landscape Architect;

for the singular application of UPPER MONTCLAIR COUNTRY CLUB, 177 Hepburn Road, Block 77.01, Lot 1, which premises are located in an RA1 zone for expansion of golf course clubhouse which requires a use variance for the expansion of a non-conforming use in an RA1 zone. Bulk variances are required for building height, curb cut width, parking stall dimensions, numbers of parking spaces, parking in front area, and such other variances as may be required; and

BE IT FURTHER RESOLVED that the City of Clifton will pay the invoices for professional engineering services at the rate of \$150.00 per hour.

Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr LOUIS DE STEFANO.

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