

Special Meeting Minutes – Board of Adjustment
March 8th, 2017

Minutes of a SPECIAL 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 8, 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.

CONTINUED HEARING

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 resumed public hearing before the Board on this application to allow further consideration of a revised site plan depicting a realigned driveway.

Steven R. Tombalakian, Esq., with offices at 629 Parsippany Road, Parsippany, New Jersey, appeared on behalf of the applicant. Glenn S. Pantel, Esq., with offices at 600 Campus Drive, Florham Park, New Jersey, appeared on behalf of the objector, 6W BP Opportunity LLC ("Stro" - Driscoll); and Ira E. Weiner, Esq., with offices at 50 Chestnut Ridge Road, Montvale, New Jersey, appeared on behalf of MMSR Realty, LLC (Steve Rich), Delawanna Realty (Richard Jenny), and Glen Mills, Inc.

This is a continued hearing from the meetings of May 18, 2016, June 15, 2016, July 20, 2016, November 16, 2016, January 4, 2017, and February 1, 2017.

Present and sworn was A. Brook Crossan with offices at 505 Main Street, Metuchen, New Jersey. Mr. Crossan continued his testimony from the previous meeting before the Board; that with reference to "O-5", the range of 14 to 21 decibels above the noise limit is based upon actual monitoring and actual calculations based upon standard industry practice; that the measurements were taken personally by him; that the industrial users operate 24 hours a day; that he did obtain information from the Supervisor of the night operations concerning truck loading and how the operations actually worked; that trucks are loaded from approximately 10 P.M. to 7 A.M. in the morning; that at 7 A.M. he did observe the last Driscoll truck drive out and observed tractor trailers starting to come into the site; that the same readings would be obtained if there was a conventional warehouse with tractor trailer trucks; that the proposed multi-family dwelling would have a devastating impact on the operation of the industrial users if they were found to violate the noise ordinance; that the site is unsuitable because of the noise issue; that he has been a noise engineer for approximately 40 years; that 90 percent of the time at night, the readings were very high, approximately 68 to 78 decibels of noise; that he did not consider mitigation of noise; that a high wall may not be economically feasible.

On cross-examination by Mr. Tombalakian, Mr. Crossan stated that he did not conduct any studies for remediation; that he conducted no research on alternative reconfigurations; that the method of measurement, how and where the studies were conducted, were explained.

Mr. Tombalakian marked for identification the following exhibits:

"A-X1" which is a copy of the Wayne Planning Board Minutes dated January 12, 2015 concerning the application of one of the objectors concerning a distribution facility with refrigeration;

"A-X2" testimony concerning mitigation of noise at the aforesaid meeting;

"A-X3" the Driscoll Foods Wayne application, closest loading dock and the fact of the building.

There was vigorous objection from both Mr. Pantel and Mr. Weiner who stated that the above items are irrelevant. Mr. Tombalakian stated that this application before the Wayne Board was presented by one of the objectors of the within application, and testimony was given concerning mitigation of noise.

On direct examination by Mr. Weiner, Mr. Crossan described the operations of Steve Rich and stated that it is a dump truck company, and trucks operate 40 feet from the site in question; that Exhibit "O-6" shows the decibel readings to be 71 at the apartments; that the site is actually continuously noisy at night, more so than in the daytime; that Exhibit "O-8" shows the measurement of decibels 40 feet from the site; that all activity is outdoors; that the activities are very close to the property line; that the noise may be 38 decibels above the limits of 50 at night and 65 during the day; that the operation of the grinders measured 80 decibels where 65 is permitted; that any resident that the proposed application could file complaints the industrial users for violating the noise ordinance.

On cross-examination by Mr. Tombalakian, Mr. Crossan testified that Steve Rich's operation is loading and unloading of gravel and dump trucks moving on and off the site; that there is an easement to access Delawanna Avenue; that at times, there is a middle of the night snow event which causes greater truck activity; that there are two large pieces of equipment which pick up salt and sand; that the truck traffic causes continuous noise levels in violation of the permitted standards; that he was not requested to nor did he prepare any noise mitigation measures.

At this point in the hearing, the matter was continued until the April 19, 2017, meeting of the Board, and both counsel for the applicant and the objectors stated that they may request an additional special meeting.

On behalf of his client, Mr. Tombalakian waived the time period within which the Board is required to render a decision.

Comr Stephen Christopher moved to adjourn. The motion was seconded by Comr Louis DeStefano with the unanimous approval of the entire Board.

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY