

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, May 10, 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 PAUL GRAUPE, LOUIS DE STEFANO, KEITH LA FORGIA, STEPHEN CHRISTOPHER, ROY NOONBURG, AND CHRMN MARK ZECCHINO.

ABSENT AND EXCUSED: COMRS DANIEL TRENK, GEORGE FOUKAS, AND VICE-CHRMN GERARD SCORZIELLO.

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

3. **CLIFTON CHEDER, INC.**, 1333 Broad Street,
Use Block 76.01, Lot 5 - B-A - Variances
Variance required for religious elementary school:
Variances
- 1) Conditional use variance required.
 - 2) Existing lot width 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.

Gerald G. Friend, Esq., with offices at 1000 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Mitchell W. Abrahams, Esq., with offices at 25 Main Street, Hackensack, New Jersey, appeared on behalf of Bankers Financial Corp. of 1339 Broad Street, Clifton, New Jersey.

This is a continued hearing from the meetings of January 4, 2017, February 1, 2017, and February 22, 2017.

Present in favor of the application were the following: Joseph Seldowitz, 115 Lafayette Ave., Passaic, NJ; Ahalon Henigson, 75 Park Ave.; Benjamin Lazar and Jonah Lazar, 8 Solond Rd., Monsey, NY; Isaac Kagan, 557 Passaic Ave., Clifton, NJ; Isaac Stern, 136 Boulevard #1, Passaic, NJ; Menachem Wiedeman and Alecsander Wiedeman, 195 Elmwood Ave., Passaic; Ariel Zarkhin, 61 The Circle, Passaic, NJ; Yitzchav Cohen, 144 Allwood Place, Clifton, NJ; Gary Klotzkin, 43 Hampton Rd., Clifton, NJ; Elliot Mathis, 14 Maplewood Dr.; Mordechai Koval, 159 Malieth Av., Passaic, NJ; Debra Goldberg, 18 Edgemont Rd., WO, NJ; Carol Gonsher and Binyamin I. Gousher, 150 Elmwood Ave., Passaic, NJ; Debbie Henigson, 75 Park Ave., Passaic, NJ; Miriam Orent, 176 Patricia Place, Clifton, NJ; Hillel Kovacs, Basya Kovacs, and Solomon Kovacs, 124 Van Houten, Passaic, NJ; Chanania Orent, 176 Patricia Place, Clifton, NJ 07012; Minki Shupiro; Tali Goldfarb, Shira Goldfarb, and Aryen Goldfarb, 333 Aycrigg Ave., Passaic, NJ; Dov Kramer, Nechemya Kramer, and Giodie Kramer, 74 Reid Ave., Passaic, NJ; Aaron Rosenfeld, 85 Crescent Ave., Passaic, NJ; Tania Wolf and Yair Wolf, 9 Garfield Avenue, Clifton, NJ; Malka Slatius, 25 Westminster Pl., Passaic, NJ; Sara Azer, 202 Cresthill Ave., Clifton, NJ; Rabbi Kantor, 32 Union Ave. 07055; Melissa Levit, 549 Broadway, Passaic 07055; Ruth Weiss, 97 Westervelt Pl., Passaic 07055; Sara Cohn and Elchanan Cohn, 30 Annabelle Ave., Clifton; Naomi/Etti Rosenblum, 58 Patricia Pl., Clifton; Aliza Zidell, 1380 North Ave. #422, Eliz., NJ; Lisa Compart and Menahem Compart, 111 Palmer St., Passaic, NJ; Suri Gutstein, 152 Van Houten Ave., 2nd Floor, Passaic, NJ; Chaya Lord, 228 Brook Ave., Passaic, NJ; Frank Katina, 155 Pennington Ave., Passaic, NJ; Ken Compart, 111 Palmer St., Passaic, NJ; S. Rosenthal, 61 Temple Place, Passaic; Sara Weinstock, 154 Park Ave., Passaic; Aviva Eisenman; Chana King, 110 Park Ave.; Esb Horowitz; P - Sharrone Perlman, 11 Katherine Ave., Passaic; Mendy Kirsh; Shmuel C. Reischer, 104 Coles Way, Lakewood, NJ 08701; Jennifer Lary, 18 Lavender Ct.; Abrahaim Weitzman, 11 Leitch Place; Shai Buynt. (All information typed as handwritten on sign-in sheet).

Present in opposition to the application were the following: Mary Sadrakula (present but not signed in); Emilia Soltis, 224 Haddenfield Rd.; Jean A. Labriola and Jean E. Labriola, 200 Chittenden Rd.; Michael Komarczyk, 34 Haussler Terrace; Carol Pruzansky, 47 Vincent Drive; Amisha Desai, 4 Peterson Ct.; Aliyas Aboughanam, 83 Haddenfield Rd.; Helen Hawran, 89 Haddenfield Rd.; Dawn Miller; Perur Sagvi, 20 Daniels Dr.; Raymond Robertello, 66 Woodlawn Ave.; Aaron Liechenstein, 14 Bogert Place; Beverly Carey, 142 Chittenden Rd.; Mary Ann DiSabato, 21 Brantwood Pl.; Ralph and Frank Sinisi, 214 Chittenden Rd.; Mr. and Mrs. Daniel Albizati, 15 Malcolm Court; Jeffrey J. Labriola, 200

Chittenden Rd.; Robert Priebue, 50 Brantwood Place; Donald Chappa, 314 S. Parkway; ____ Joseph Addabbo, 45 St. James; Afred Milici and Kathleen Milici, 38 Rolling Hills Rd.; George Hariton, 32 Rolling Hills Rd.; Matt Warren, 104 Rolling Hills Rd.; Mike Pasino, 20 Bogert Pl.; Ros Munda, 235 Haddenfield Rd.; Teresa Thiruvathukal, 56 Rabkin Dr.; Vivian Semerano, 6 Walsh Ct.; Karen A. Acito, 14 Peterson Ct.; Cindi Figlar, 93 Holster Rd.; Valerie Riggi, 40 McCosh Road; Valerie Lopuzzo, 32 Brantwood Pl.; Jaydeer Naik, 21 Wester Pl.; Jessi Cholewczynski, 49 Rabkin Dr.; Jack Lyons, 49 Rabkin Dr.; Mohammad Zamani, 16 Chittenden Rd., Clifton; Edward Mo and Jessica Mo, 163 Haddenfield Rd., Clifton; Sam Wong and Dolores Wong, 65 Brantwood Pl.; Valerie Pecora, 229 Haddenfield Rd.; Cathie Murtha, 32 Bogert Pl.; Thomas Davey, 5 Janice Terrace; Doris Loreng and Rich Loreng, 70 Bogert Place; Rich Wojtczak, 15 Anderson Dr.; Diana Smith, 30 Collura Lane; Donald Lopuzzo, 32 Brantwood Place; Donald & Fran Warren, 15 Walsh Ct.; Emily Diamond, 14 Walsh Ct.; Larry Zahn and Linda Zahn, 73 Bogert Pl.; Nancy Scangarello, 68 Holster Rd.; Ed Wegrzyniak, 68 Holster Rd.; Dan Neczehir and Anne Neczehir, 52 Anderson Dr.; Cheryl Janson, 63 Holster Rd.; J. Genchi, 188 Haddenfield Rd.; Ann Wry, 16 Earnshaw Pl.; Glen Santussi, 16 Earnshaw Pl.; Ed Rudbart, 21 Walsh Ct. (all information typed as handwritten on sign-in sheet).

Mr. Friend stated that it has come to his attention that the applicant has failed to serve an interested party—to wit: The New Jersey Turnpike Authority; that he requests that the matter be continued so that the New Jersey Turnpike Authority could be served.

Chrmn Zecchino stated that the failure to serve those who are entitled to be given notice is a jurisdictional issue and requested an opinion from Counsel Pogorelec.

Counsel Pogorelec stated that the Courts have held that the service of statutory notice was a jurisdictional requirement; that non-compliance results in the Board having no jurisdiction to act; that the matter should be dismissed without prejudice; that if the applicant intends to proceed, a new application must be filed.

Hearing the opinion of counsel, Chrmn Zecchino called for a motion. Thereupon, Comr Keith LaForgia moved to dismiss the matter without prejudice and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Michael Molner, Louis DeStefano, Keith LaForgia, Stephen Christopher, Roy Noonburg, and Chrmn Mark Zecchino. By a six to zero vote, the motion carried, and 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.

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF MAY 10, 2017.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFTON CHEDER, INC. for premises known as: 1333 Broad Street, Block 76.01, Lot 5 be and the same is hereby: **DISMISSED WITHOUT PREJUDICE** for a religious elementary school for failure to give proper notice as required by law.

Testimony concerning the aforesaid application was taken by the Board at its meetings on January 4, 2017, February 1, 2017, February 22, 2017, and May 10, 2017. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

WHEREAS, the applicant requests conditional use variances, bulk variances, and site plan approval to convert the existing building to a religious elementary school at premises located at 1333 Broad Street, Block 76.01, Lot 5, which premises are located in a B-A zone; and

WHEREAS, on the return date of a continued hearing, the Board was advised by the applicant that a party who was required to be served with notice was not served; and

WHEREAS, service of the statutory notice is a jurisdictional requirement, and non-compliance means that the Board has no jurisdiction to act; and

WHEREAS, because of the defective notice, any hearing conducted by the Board is a nullity since the Board did not have jurisdiction to hear testimony and to act in any manner;

NOW THEREFORE, BE IT RESOLVED that the application for a religious elementary school at premises located at 1333 Broad Street, Block 76.01, Lot 5, be and the same is hereby dismissed without prejudice for failure to comply with the statutory requirements of notice.

Resolution moved by: Comr KEITH LA FORGIA.

Seconded by: Comr LOUIS DE STEFANO.

Affirmed by: Comrs Michael Molner, Louis DeStefano, Keith LaForgia, Stephen Christopher, Roy Noonburg, and Chrmn Mark Zecchino.