

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 28, 2018. 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 SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, KEITH LA FORGIA, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMRS DANIEL TRENK AND ROY NOONBURG.

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

Chrmn Zecchino announced that notice of the special meeting was published in the Herald News on March 15, 2018, in accordance with the Open Public Meetings Law.

1. CLIFTON CHEDER, 1333 Broad Street,
Use Block 76.01, Lot 5 – B-A – The Applicant

Variance; seeks approval for a conditional use
Variances (Elementary School) in the B-A Zone
District. However, the provisions of the
R-A1 Zone apply to this Application. As
a part of the Application there are no new
variances being requested, however,
there are several existing conditions for
which we are giving notice.
-With respect to the lot width, pursuant
to Section 461-27, a lot width of 150 ft. is
required an existing condition of 133 ft.
currently exist and will continue;
-With respect to the maximum lot coverage,
pursuant to Section 461-27, 20% is the
maximum permitted and we are requesting
24.74% which is an existing condition; and
-With respect to the minimum side yard,
20 ft. of 1 and 40 ft. for both, pursuant to
Section 461-27 is required, and we are
proposing 18.87 ft. for 1 and 42.74 ft. for
an existing condition.

Due to these existing conditions, all the
conditions of the Conditional Use
Ordinance Application are not satisfied
and therefore, the Application to the
Board of Adjustment is being made and
noticed to the public.

The Applicant will also request such other
variances, waivers, and interpretations
as may be required which may arise
during the course of the public hearing or
at the request of the Board of Adjustment.

Jason Waldstein, Esq., of Schenck Price Smith & King, LLP, with offices at
220 Park Avenue, Florham Park, New Jersey, appeared on behalf of the applicant.

Mitchell W. Abrahams, Esq., of Cole Schotz, with offices at 25 Main Street, Hackensack, New Jersey, appeared on behalf of objector 1355 Broad Associates LLC. Present were the following objectors: Mary Sadrakula, 340 Dwasline Road, Clifton, NJ; A. Mackey, 45 Fairfield Rd.; Emilia Soltis, 224 Haddenfield Rd.; Kelly Eckert, 203 Edgewood Ave., Henry Cholewczynski, 37 Phyllis Pl.; Vivian McDermott, 203 Edgewood Ave.; Arlene Calderone-Bayeux, 69 Marlboro Rd.; Leo Viviano, 50 Rolling Hills Rd.; Louis Cappello, 44 Rolling Hills Rd.; Kathleen Milici and Alfred Milici, 38 Rolling Hills Rd.; Aliyas Aboughanam, 83 Haddenfield Rd.; John Labriola, Jeffrey Labriola, and Jean Labriola, 200 Chittenden Rd.; Dan Neczapir, 52 Anderson Drive; Mike Leach, 185 Chittenden Rd.; Cathy Kartanos, 31 Anderson Drive; Daniel Albizati, 15 Malcolm Ct.; Joseph Sardiwa, 1368 Broad St.; David Cannon, 28 Fairfield Rd.; Fran and Don Warren, 15 Walsh Ct.; Emily Diamond, 14 Walsh Ct.; Peter Sagui, 20 Daniels Dr.; Beverly Carey, 142 Chittenden Rd.; Cathie Murtha, 32 Bogert Pl.; Barbara DiDonna, 211 Haddenfield Rd.; Joseph Pecora, 229 Haddenfield Rd.; Nicola R. DiDonna, 211 Haddenfield Rd.; Ralph Nicastro, 205 Haddenfield Rd.; Christina Zurawski and Christopher Zurawski, 80 Chatham Terrace; Aaron Liechenstein, 14 Bogert Pl.; and Giuseppina Sardina, 1368 Broad St. (names are typed as appears from handwritten list). No members of the public signed-in as being "in favor" of the application.

Chrmn Zecchino inquired of Counsel Pogorelec as to whether Notice pursuant to the Ordinance and Statute was properly made by the applicant.

Counsel Pogorelec stated that he reviewed the Affidavit of Proof of Service as well as the Notice provided by the applicant; that the public Notice is not clear; that the public Notice should state that a D-3 use variance is required; that the applicant properly served all interested parties within 200 feet of the subject premises; however, the applicant failed to give the proper notice as required by the instructions of the Clifton Zoning Board of Adjustment, given to each applicant, to the following: Passaic County Utility Authority (PCUA); Passaic Valley Water Commission; Public Service Electric & Gas Company; Verizon; Cablevision; and Passaic County Planning Board.

In addition, the applicant is required under N.J.S.A. 40:55D-12(f) to give notice to the Commissioner of Transportation since the property is adjacent to a

State highway.

Counsel Pogorelec stated that the applicant failed to comply with the Notice provisions of the Land Use Law and the Ordinances of the City of Clifton and advised the Board that the matter should be dismissed without prejudice for lack of jurisdiction in the matter.

Thereupon, Comr Louis DeStefano moved to dismiss the matter without prejudice since the Board lacks jurisdiction. The motion was seconded by Comr George Foukas. Voting for the motion were Comrs Scott Sochon, Michael Molner, Louis DeStefano, Keith LaForgia, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application 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 MARCH 28, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFTON CHEDER
for premises known as: 1333 Broad Street, Block 76.01, Lot 5
be and the same is hereby: DISMISSED WITHOUT PREJUDICE for an elementary school in the B-A district for lack of jurisdiction.

This matter, coming before the Board at a special meeting on March 28, 2018. The application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the opinion of Counsel, Comr Louis DeStefano moved to dismiss the matter without prejudice on the basis of the following Resolution:

WHEREAS, the applicant requests approval for conditional use and variances for an 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, there was a determination by the Counsel to the Zoning Board that the applicant failed to give proper Notice in accordance with the rules and regulations of the Zoning Board of Adjustment and State Statute N.J.S.A. 40:55D-12(f) Notice to the Commissioner of Transportation; and that the Notice is not clear and should state that a D-3 use variance is required; and

WHEREAS, due to the failure of the applicant to comply with the Notice requirements, the Board lacks jurisdiction to hear this matter;

NOW THEREFORE, BE IT RESOLVED that the application for an Elementary School at premises located at 1333 Broad Street, Block 76.01, Lot 5, be and the same is hereby dismissed without prejudice.

Resolution moved by: Comr LOUIS DE STEFANO.

Seconded by: Comr GEORGE FOUKAS.

Affirmed by: Comrs Scott Sochon, Michael Molner, Louis DeStefano, Keith LaForgia, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.