

Board of Adjustment
Minutes
May 2, 2018

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 2, 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 MICHAEL MOLNER, DANIEL TRENK, KEITH LA FORGIA, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMRS SCOTT SOCHON AND LOUIS DE STEFANO.

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 Daniel Trenk, seconded by Comr Roy Noonburg, the Minutes of the April 18, 2018, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

- 1. 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,

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.

NOTE: REVISED PLAN ON FILE

This matter was previously continued by the Board to the June 6, 2018, meeting.

2.

Use

Variance
- CARLOS SUAREZ & NELY ALTAMIRANO,

42 Paterson Avenue, Block 82.02, Lot 64

-- 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 by the Board to the May 16, 2018, meeting.

3.

Variances
- YESHIVA KTANA OF PASSAIC, INC.

288, 292, 296, 300 & 304 South Parkway, Block 59.01, Lots 8, 11, 13, 15 & 17

-- RB2 – Preliminary and Final Site Plan Approval with associated conditional and/or use variance and other related waiver and variance relief, property approximately 0.745 acres improved with 5 residential dwellings, 4 of which are owned by the applicant and 1 of which is under contract of sale with the applicant.

The Applicant seeks to demolish the homes and

construct and utilize a parking area consisting 73 spaces, together with associated landscaping, fencing and other site enhancements, all to be accessory to the Applicant's inherently beneficial religious and educational school facility, which is located in the City of Passaic and which is adjacent to the Property. All vehicular ingress and egress is proposed to be through the Applicant's property in Passaic, other than a 20' "clear" opening gate solely for emergency access from South Parkway (southwestern corner of property) for use by emergency personnel as requested by the Clifton Fire Department. Certain other plan amendments have been made at the request of the Fire Department, including but not limited to installation of a new hydrant on school property, addition of a 4' wide swing gate in the southeastern corner of the property for emergency responder access (non-vehicular), provision for Knox padlocks for Fire Department perimeter area access and creation/labeling of "fire lane – no parking" areas.

The Applicant requests relief from the following Code provisions for the accessory parking:

- (1) §461-47A(1) – fence along front and side property lines to rear of main structure to be no more than 4' height and to be 50% open – proposed: fence 6' height board-on-board construction with 50% open along side (no building on Property);
- (2) §461-47A(2) – fence erected along the side lines from the rear line of the main structure to the rear property line and along said rear

property line shall not exceed 5' and may be solid or in the nature of stockade or basket weave construction –

proposed: 6' board-on-board fence with 50% open space proposed along side property lines;

(3) §461-60(E) – no parking to be located within front yard –

proposed: parking within front yard setback;

(4) §461-60(F) – no parking to be located within 10' of rear line –

proposed: parking within rear yard setback;

(5) §461-60(J) – no parking or standing of automobiles within front, rear or side yards in residential districts –

proposed: parking within front yard setback;

(6) §461-60(N) – parking lot in excess of 10,000 sf to provide interior landscaping (20 sf/space)-

proposed: no interior landscaping but significant side and front perimeter buffer;

(7) §461-29; §461-27A – minimum lot size 1 acre for conditional school use –

proposed: minimum lot size 34.456 sf in Clifton (compliant with split municipal boundary consideration);

(8) §461-29; §461-27-A – minimum lot depth 150' –

proposed: minimum lot depth 118.03' in Clifton (compliant with split municipal boundary consideration).

In addition to the foregoing described relief, the Applicant will also seek approval for any and all variances, exceptions, waivers, and other incidental relief that may be required or deemed necessary by the Board after or during its review of this Application, together with any further relief that may be deemed necessary by the

Applicant during the hearing process, including that which may be generated by way of revised plans and submission of same. Measurements, percentages and other calculations provided in this notice are in accordance with the development plans filed with the Application. Please note that to the extent plan and/or Application revisions are made during the hearing process, these measurements, percentages and other calculations will likely change, as may the associated relief required per the City Code. The Applicant reserves the right to amend its application accordingly.

This matter was previously continued by the Board to the July 18, 2018, meeting of the Board.

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| 4. | RICHFIELD MEWS, LLC, 1187 Van Houten |
| Subdivision | Avenue, Block 40.05, Lot 1 – B-B & RA3 – |
| Use | Subdivision of the property commonly known |
| Variance; | as RICHFIELD FARMS into two (2) lots with |
| Variances | one lot fronting on Van Houten Avenue and |
| | having a size of 91.990 square feet being |
| | known as Lot 1.01 having lot dimensions of |
| | Front 438.59’, Rear 431.31’, Right Side 39.2’ |
| | and Left Side 208.6’. The second lot is to be |
| | fronting on Doremus Avenue and is to be |
| | known as Lot 1.02 having a size of 112,796 |
| | square feet, a Front Yard of 289.89’, Rear Yard |
| | 294.99”, Right Side 411.29’ and Left Side |
| | 356.99’. In addition, a use variance is |
| | required to permit construction of thirty-six |
| | (36) townhouses on proposed Lot 1.02 |
| | requiring the following bulk variances: |
| | -minimum lot area per dwelling unit |

(5,000 square feet required, 3,233 square feet proposed), -maximum lot coverage (27% permitted, 52.5% proposed for Lot 1.02 and 50.4% proposed for Lot 1.01), -maximum building height (2 stories/30 feet permitted, 3 stories/31.92 feet proposed), -rear yard setback (40 feet required, 38.5 feet proposed).

NOTE: REVISED PLAN ON FILE

This matter was previously continued by the Board to the May 16, 2018, meeting of the Board.

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| 5. | LEVIN MANAGEMENT CORP., |
| Use | 1010 Route 46 a/k/a Route 46 West |
| Variance; | and Van Houten Avenue, Block 39.01, |
| Variances | Lot 23 – B-D – Amended simultaneous preliminary and final site plan approval and sign variances, for colors, size, location, height over roof line, number of signs and signs on a new façade, parking space size, location and number, and a conditional use variance to permit the operation of a Restaurant/Café in a proposed new supermarket, all specifically as otherwise provided in the City’s Ordinances and any other applicable variances from the requirements of the land use development ordinances for the City of Clifton or waivers and/or exceptions that may be required so as |

to permit operation of a 16,060 sq. ft.
supermarket with a Restaurant/Café with
approximately 88 seats in the mall known
as Clifton Plaza.

This matter was previously continued by the Board to the May 16, 2018, meeting of the Board.

6. WIESLAW SERAFIN, 420 Highland Avenue,
Use Block 21.02, Lot 65 – RB2 – Applicant
Variance proposes to use the basement of an
existing condo unit for living space and a
three-fixture bathroom. Use variance
required for the three-fixture bathroom.
Zoning Board resolution dated April 20,
1988 has a stipulation stating “The basement
to be used for storage purposes only.”
Applicant requests this stipulation be
removed. And such other variances as
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 Frank D. Mileto of 14 Beaver Brook Drive, Long Valley, New Jersey. There were no objectors.

Mr. Sala stated that the applicant proposed to use the basement of an existing condo unit for living space and a three-fixture bathroom; that a use variance is required for the three fixture bathroom; that in 1988, the Zoning Board did grant a use variance with the stipulation that the basement be used for storage purposes only; that the applicant now requests that this stipulation be removed.

Mr. Mileto stated that a 4-unit dwelling previously was approved by the Board in 1988; that the applicant presently owns Unit 1 and built the condo without permits from the City of Clifton; that the conversion was discovered by the tax assessor’s

office which required the applicant to come back before the Board; that in his opinion, there are no negative impacts as a result of the conversion; that it is not being used for storage purposes but for living purposes, and that is the reason for the request for the use variance.

In response to a number of questions raised by Board members, Mr. Mileto stated that the conversion to the condo will not be detrimental to the health and safety of the neighborhood.

Vice-Chrmn Scorziello noted for the record that it appears that the stipulation was placed on record in order to permit the applicant at that time to be granted a use variance for a 4-unit dwelling.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to deny the application on the grounds that the applicant has failed to sustain the burden of proof to show why the stipulation should be removed. Vice-Chrmn Scorziello further instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Keith LaForgia, 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.

NEW HEARINGS

1, ALI ZIDAN, 10 Hobart Place, Block 20.03,
Variances Lot 20 – RB1 – Variances required for a
 proposed single story rear addition and
 second story addition:
 1) Left side yard proposed at 4.78' where 6'
 is required;

- 2) Combined side yards proposed at 13.9' where 16' is required.
- 3) Front yard proposed at 23.07' where 25' is required.
- 4) Lot coverage proposed at 30.3% where a maximum of 27% is permitted.
- 5) Existing, nonconforming lot width and area.

Ali Zidan, residing at 10 Hobart Place, Clifton, New Jersey, was present and sworn. Also present and sworn was Nassir Almukhtar of 1171 Madison Avenue, Paterson, New Jersey. There were no objectors.

Mr. Almukhtar testified on behalf of the applicant and stated that the applicant proposes a single-story rear addition and a second story addition at the subject premises; that the left side yard setback requirement is 6 feet, and the applicant is proposing 4.78 feet; that the combined side yard setback requirement is 16 feet, and the applicant proposes 13.9 feet; that the front yard setback requirement is 25 feet, and the applicant is proposing 23.07 feet; that the lot coverage permitted is 27 percent, and the applicant is requesting 30.3 percent; that the structure has existing, non-conforming lot width and lot area.

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 variances requested. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Keith LaForgia, 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. CHURCH OF GOD, 558-600 Getty Avenue,

Use	Block 9.04, Lot 22 – M-3 – Applicant proposes
Variance	to locate a House of Worship on the first floor of a mixed use building. Use variance required. Parking complies. Such other relief 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 were Javier Matehu of 46 Center Grove Road, Randolph, New Jersey, the Pastor of the applicant's congregation; and George Held of 587 Getty Avenue, Clifton, New Jersey, an architect and planner. There were a number of interested parties who were present in support of the application: Javier Matehu, 46 Center Grove Road, Randolph, NJ; Luis Garcia, 324 Trinity Place, Elizabeth; Morica Alzante, 52 Kossoth Ave., Wayne, NJ; Glorio Arias, 85 Elm Street, Clifton, NJ; Clavdia Carmona, 187 Carlisle Ave., Paterson, NJ; Adriana Arroyave, 622 E 32nd St., Paterson; Patricia M. Ortega, 18 Lake Ave., Paterson; Marisol Hernandez, 154 Alabama Ave., Paterson; Escarlet Rosario, 114 Straight St., Apt. 4, Paterson, NJ; Juan Tejada, 627 E 27th St., Paterson; Julio C Caicedo, 90 Carbon St., Paterson; Ravle Rojos, 14 Elizabeth St. Paterson, NJ; Paula Colon, 182 Louise St., Clifton, NJ; Lisselot Rivera, 504 E 34th St., Paterson, NJ; Francia Ochoa, 947 Van Houten Ave., Clifton, NJ; Gladys Cuba, 386 Highland Ave., Clifton, NJ; Alejandra Rivera, 102 Genesse Ave., Paterson; Graciela Salazar, 286 Vernon Ave., Paterson, NJ; Pablo Esalazar, 84 Mayfield Ave., Edison, NJ; Denisse Payne, 75 Goshen St., Apt. #202, Paterson, NJ; Marleny Melillo, 45 Church Street, Lodi, NJ; Ana Batiz, 237 Lakeview Ave., Clifton, NJ.

Mr. Sala stated that the applicant proposes to locate a House of Worship at the premises in question; that a portion of the existing building on the site will be utilized as a House of Worship; that the applicant proposes to convert 7,045 square feet of the existing 166,402 square feet building for the House of Worship.

Javier Matehu testified as the Pastor of the Church and stated that there are a total of 272 members of the congregation; that the membership comes from Clifton and many of the towns which border the City of Clifton; that in general, services are held evenings from 7 to 8:30 P.M.; Saturday from 6 to 8:30 P.M.; and Sunday

from 11 A.M. to 12:30 P.M.; that the Church will not have any parties; that there will be no food served at the site; that there are no weddings or funerals; that he did look at other sites for the location of the Church which were not acceptable.

George Held testified as an architect and planner and stated that the property is located in a PDO-2 planned development zone; the fact that the site in question is 9.39 acres; that the site contains a large multi-use building which houses Planet Fitness, retail, warehouse and storage, retail greenhouse, a dental office, and a school which was recently approved by the Board in 2017; that the surrounding uses are all mixed uses; that there is adequate parking at the site for the proposed Church; that the Church is an inherently beneficial use and is not subject to the site suitability requirement.

Mr. Sala had marked into evidence a report dated February 18, 2018, showing membership addresses, telephone numbers, number of years of membership, and those who drive motor vehicles. Said report was marked into evidence as "A-1."

After a review of the testimony, Comr Roy Noonburg moved to grant the application, citing the fact that the use is an inherently beneficial use which satisfies the positive criteria and there is adequate parking in the site to satisfy the negative criteria. Comr Noonburg instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Keith LaForgia, 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.

3.	AMERICAN ANALYTICAL ASSOCIATION, LLC,
Use	240 Parker Avenue a/k/a 231 Dayton Avenue
Variance;	(3 Botany Village Square West), Block 4.23,

Variances Lot 2 – PD1 – Applicant proposes to reconfigure existing structure to contain one commercial unit and seven residential units. Building currently contains one commercial use and three residential uses. Use variance required for residential use in the PD-1 zone and mixed use. Interior renovation is proposed with no additions proposed. Existing nonconforming lot area and bulks. Any other relief deemed necessary by the Board.

Bennett Wasserstrum, Esq., with offices at 999 McBride Avenue, Woodland Park, New Jersey, appeared on behalf of the applicant. Present and sworn were Neal Tanis of 12 Botany Village Square, Clifton, New Jersey, an architect; and Frank D. Mileto of 14 Beaver Brook Drive, Long Valley, New Jersey, a planner. There were no objectors.

Mr. Wasserstrum stated that the applicant seeks use variance approval to reconfigure an existing structure to contain one commercial unit and seven residential units; that the building currently contains one commercial unit and three residential units.

Mr. Tanis testified that the premises in question is located in a PD-1 zone; that the building presently contains one commercial use and three residential uses; that the applicant proposes one commercial use and seven residential units; that there will be 2 two-bedroom apartments and 5 one-bedroom apartments; that the interior sizes of the apartments vary from a minimum of 618 square feet to a maximum of 723 square feet for the larger two-bedroom apartment; that the first floor of the structure will contain the store which will have 618 square feet and a one-bedroom apartment; that the second floor will contain 2 two-bedroom apartments; that the third floor will have 2 one-bedroom apartments; and the fourth floor will also have 2 one-bedroom apartments.

Mr. Tanis continued to testify that the existing building has basement for storage and that garbage is set out by the proposed tenants for pick-up on municipal scheduled dated.

Mr. Mileto testified that Botany Village was initially developed from commercial and retail purposes; that it became necessary for residential uses to sustain the vitality and growth of the retail uses; that the Master Plan developed the zone as PD1 zone; that the present plan alleviates any parking problems; that the proposal satisfies one of the purposes of the Land Use Law which encourages redevelopment; that the applicant has satisfied the positive and negative criteria; that the positive criteria is satisfied in that it provides housing and the negative is satisfied since there is sufficient parking adjacent to the site; that in his opinion, there are no detriments or negative impacts; that the proposal may be granted without impairment of the zone plan and zone ordinance.

After a review of the testimony, Comr Roy Noonburg moved to grant the application, citing the fact that the proposal represents good redevelopment of the existing structure. Comr Noonburg further instructed the Counsel Secretary to prepare the proper Resolution for approval of the relief requested by the applicant. The motion was seconded by Comr Keith LaForgia. Voting for approval were Comrs Michael Molner, Daniel Trenk, Keith LaForgia, 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.

RESOLUTIONS

Chrmn Mark Zecchino stated that the Board would act upon the Resolutions set forth on the Agenda:

1. Upon motion made by Comr Roy Noonburg, seconded by Comr George Foukas, and affirmed by Comrs George Foukas, Roy Noonburg, and Vice-Chrmn Gerard Scorziello, the Resolution DENYING the application of 299 ROUTE 3 EAST, LLC for a use variance to permit two principal uses on the same lot being the existing gasoline service station and the conversion of the automobile service building into a coffee shop at 299 Route 3 East, Block 83.01, Lot 2.01, was adopted. M-3 or P-MU

2. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Daniel Trenk, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of PARKWAY IRON & METAL, INC. for a use variance to permit the existing perimeter wall to remain and for a bulk variance as to the height and composition of the perimeter wall at 613-639 Route 46 East, Block 19.01, Lot 1, was adopted. M-3

3. Upon motion made by Comr Roy Noonburg, seconded by Comr Keith LaForgia, and affirmed by Comrs Daniel Trenk, Keith LaForgia, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MOUSTAFA MOHAMMED for left side yard setback and rear yard setback variances for a rear yard gazebo at 16 Helen Place, Block 31.01, Lot 59, was adopted. RB1

4. Upon motion made by Comr Roy Noonburg, seconded by Comr Daniel Trenk, and affirmed by Comrs. Daniel Trenk, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of SIDEOUT SPORTS, LLC for preliminary and final site plan approval and use variance to permit expansion of existing buildings at the subject property for use as an indoor volleyball center at 356-362 Getty Avenue, Block 10.10, Lot 1 and 3, was adopted. M-2

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Chrmn Zecchino stated that the next order of business would be the communication received from Counsel Pogorelec regarding the remand of the TRUCARE ADULT MEDICAL DAY CARE, LLC, 1111 Paulison Avenue, Block 19.03 Lot 1, pending before the Superior Court, Passaic County; that the matter was heard by the Court on March 27, 2018, at which time the Court considered oral arguments on the application of the plaintiff to reverse the action of the Board of Adjustment and grant the use variance; that the Court denied the applicant's motion to grant the application and remanded the matter back to the Board for the Board to determine whether the Trucare facility is an inherently beneficial use, in which case the Sica weighing function will be required to be performed by the Board; or in the alternative, if the Board decides that the facility is not an inherently beneficial use, then a determination has to be made whether the site is particularly suited for the proposed use and a D-1 use variance be granted; that the applicant will be required to provide the statutory notice to all interested parties and public notice as required by law.

After discussion, it was unanimously agreed by the Board that the matter be scheduled for remanded hearing on June 6, 2018, and the applicant will be given the appropriate notice to appear at the hearing before the Board.

There being no further business before the Board, Comr Keith LaForgia 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 MAY 2, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: WIESLAW SERAFIN
for premises known as: 420 Highland Avenue, Block 21.02, Lot 65
be and the same is hereby: DENIED use variance approval to use the basement of an existing condominium unit for living space and a three-fixture bathroom.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 2, 2018. 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 deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval as aforesaid for approval to use the basement of an existing condominium unit for living space and a three-fixture bathroom at premises located at 420 Highland Avenue, Block 21.02, Lot 65, which premises are located in an RB2 zone; and

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

- a. The applicant presently owns a unit which was converted from storage space to living space without obtaining necessary permits from the City of Clifton;
- b. In 1988, the Zoning Board of Adjustment did grant a use variance for a 4-unit dwelling with the stipulation that the basement would be used for storage purposes only;
- c. The applicant now requests that this stipulation be removed;
- d. The applicant has failed to sustain the burden of proof to have the stipulation removed;
- e. The testimony of applicant's expert failed to satisfy the positive and negative criteria required for the grant of a use variance;
- f. The detriments outweigh the benefits, if any; and

WHEREAS, the Board finds from the testimony presented that the stipulation

imposed by the Board in 1988 was placed on record in order to permit the applicant to obtain a use variance for a 4-unit dwelling, and the removal of said stipulation would not 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 by the Board must remain, otherwise the use of the basement space as a condominium would be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the proposal to use the basement of an existing condominium unit for living space and a three-fixture bathroom at premises located at 420 Highland Avenue, Block 21.02, Lot 65, be and the same is hereby disapproved and the use variance be and the same is hereby denied; and be it further ordered that the premises be restored to storage space as required by the 1988 resolution of the Zoning Board of Adjustment.

Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr KEITH LA FORGIA.

Affirmed by: Comrs Michael Molner, Daniel Trenk, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MAY 2, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ALI ZIDAN
for premises known as: 10 Hobart Place, Block 20.03, Lot 20
be and the same is hereby: GRANTED variances left side yard setback, combined side yard setbacks, front yard setback, and lot coverage for a single-story rear addition and a second story addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 2, 2018. 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 erect a single-story rear addition and a second story addition at premises located at 10 Hobart Place, Block 20.03, Lot 20, which premises are located in an RB1 zone; and

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

- a. The applicant requests approval for a single-story rear addition and second story addition;
- b. The left side yard setback requirement is 6 feet, and the applicant is proposing 4.78 feet;
- c. The combined side yard setback requirement is 16 feet, and the applicant is proposing 13.9 feet;
- d. The front yard setback requirement is 25 feet, and the applicant is proposing 23.07 feet;

e. The lot coverage permitted is 27 percent, and the applicant is seeking 30.3 percent;

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; 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 as aforesaid for a single-story rear addition and a second story addition at premises located at 10 Hobart Place, Block 20.03, Lot 20, be and the same is hereby approved and the variances for left side yard setback, combined side yard setbacks, front yard setback, and lot coverage 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 VICE-CHRMN GERARD SCORZIELLO.

Affirmed by: Comrs Michael Molnar, Daniel Trenk, Keith LaForgia, George Foukas,
Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MAY 2, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CHURCH OF GOD
for premises known as: 558-600 Getty Avenue, Block 9.04, Lot 22
be and the same is hereby: GRANTED use variance approval for a House of Worship on the first floor of a mixed use building.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 2, 2018. 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 Roy Noonburg moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval to locate a House of Worship on the first floor of a mixed use building at premises located at 558-600 Getty Avenue, Block 9.04, Lot 22, which premises are located in an M-3 (PDO-2) 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 proposes to convert a portion of the existing building on the site to a House of Worship;
- b. The site in question is 166,402 square feet, and the applicant is proposing to convert 7,045 square feet of that to a House of Worship;
- c. The House of Worship will consist of 272 members with services held generally in the evenings from 7 to 8:30 P.M., on Saturday from 6 to 8:30 P.M., and on Sunday from 11 A.M. to 12:30 P.M.;
- d. That the proposed House of Worship will have no social parties or food served at the site as well as no weddings or funeral services performed at the site;

- e. The applicant has searched for other sites which were totally unacceptable;
- f. The House of Worship is an inherently beneficial use which satisfies the positive criteria;
- g. Based upon the testimony of the applicant's expert, there is sufficient parking to accommodate the needs of the membership which satisfies the negative criteria;
- 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 the site in question is located in an M-3 zone and has multiple mixed uses, including a school, Planet Fitness, retail, warehouse and storage, retail greenhouse, and a dental office; and

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WHEREAS, the Board further finds that the proposal will not be detrimental to the health, safety, and general welfare of the neighborhood since there is more than sufficient parking to satisfy the demands for parking at the site;

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for a House of Worship on the first floor of the mixed use building at premises located at 558-600 Getty Avenue, Block 9.04, Lot 22, be and the same is hereby approved and the use variance be and the same is 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 ROY NOONBURG.

Seconded by: Comr KEITH LA FORGIA.

Affirmed by: Comrs Michael Molner, Daniel Trenk, Keith LaForgia, George Foukas,
Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MAY 2, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: AMERICAN ANALYTICAL ASSOCIATION, LLC

for premises known as: 240 Parker Avenue a/k/a 231 Dayton Avenue
(3 Botany Village Square West)
Block 4.23, Lot 2

be and the same is hereby: GRANTED use variance and bulk variance to reconfigure an existing structure to contain one commercial unit and seven residential units.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 2, 2018. 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 Roy Noonburg moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval to reconfigure an existing structure to contain one commercial unit and seven residential units at premises located at 240 Parker Avenue a/k/a 231 Dayton Avenue (3 Botany Village Square West), Block 4.23, Lot 2, which premises are located in a PD1 zone; and

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

- a. The applicant proposes to reconfigure an existing structure to contain one commercial unit and seven residential units where one commercial use and three residential units are located;
- b. A use variance is required for residential uses in a PD-1 zone;
- c. The applicant proposes no additions;
- d. There will be interior renovations of the premises;

e. There will be one commercial store, 5 one-bedroom apartments, and 2 two-bedroom apartments;

f. Based upon the testimony of the applicant's planner, the residential use is needed to support the retail uses and provides much-needed apartments;

g. Based upon the testimony of the applicant's planner, the applicant has satisfied the positive and negative criteria required for the grant of a use variance;

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

WHEREAS, the Board finds from the testimony presented that the proposed reconfiguration of the existing structure will be in accord with the intent and purpose of the master plan and the zone ordinance since the Land Use Law encourages redevelopment which the applicant is proposing; and

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(CONTINUED)

WHEREAS, the Board further finds that there is sufficient parking space to accommodate the parking demand of the building which will help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid to reconfigure an existing structure to contain one commercial unit and seven residential units where one commercial and three residential units exists at premises located at 240 Parker Avenue a/k/a 231 Dayton Avenue (3 Botany Village Square West), Block 4.23, Lot 2, be and the same is hereby approved and the use variance be and the same is 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 ROY NOONBURG.

Seconded by: Comr KEITH LA FORGIA.

Affirmed by: Comrs Michael Molner, Daniel Trenk, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.