

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, June 6, 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, DANIEL TRENK, LOUIS DE STEFANO, KEITH LA FORGIA, 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 Comr Daniel Trenk, the Minutes of the May 9, 2018, special meeting were adopted with the unanimous approval of the entire Board.

Upon motion made by Comr Keith LaForgia, seconded by Comr Louis DeStefano, the Minutes of the May 16, 2018, regular meeting were adopted with the unanimous approval of the entire Board.

REMANDED HEARING

1. TRUCARE ADULT MEDICAL DAY CARE,
Use LLC, 1111 Paulison Avenue, Block 19.03,

Variance; Lot 1 – M-1 – Use variance to permit an adult medical day care center and bulk variances for parking and for a part of the building. Bulk variance required for parking (107 spaces required, 80 spaces provided) and site plan approval required.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn were Kailash Gupta of 45 Forest Avenue, Closter, New Jersey; and Ather Usmani. There were no objectors.

Chrmn Zecchino requested Counsel Pogorelec to advise the procedure for proceeding with the remanded hearing.

Counsel Pogorelec stated that the Zoning Board of Adjustment previously denied the use variance application by a four to three vote, and the Board's findings and conclusions were memorialized in a Resolution dated July 19, 2017; that the applicant took an appeal to the Superior Court which heard the matter on March 27, 2018; and after consideration of the oral arguments advanced by counsel for the plaintiff and the defendant, Zoning Board of Adjustment of the City of Clifton, the Court entered an Order denying the plaintiff's motion for summary judgment and ordered that the case be remanded to the Board for additional testimony-- specifically, to consider whether the plaintiff, Trucare's, 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 suitable and a D-1 use variance may be granted. The Court further ordered that in making their determination, the members of the Board should articulate the reasons why they are voting for or against the application.

It was noted for the record that retired Comr Stephen Christopher is no longer with the Board and that Comr Michael Molner, who was present during all the hearings, would sit in his place and stead.

Chrmn Zecchino directed Mr. Carlet to proceed in accordance with the remand

order.

Mr. Carlet called Kailash Gupta as his first witness, and she testified as to the Schedule of Adult Day Care Center events which set forth the weekly activities. Said schedule was marked into evidence as "R-1." Ms. Gupta continued to testify that the first choice of an enrollment in the adult day care center is given to local residents; that there will be a maximum number of 120 enrollees on a daily basis, some of whom would be ambulatory, some in wheelchairs, and some in walkers; that there are no full-time residents at the facility.

Mr. Carlet had marked into evidence as "R-2" a document showing New Life Adult Day Care Center which is another health care facility licensed for 200 people. He called as a witness Elizabeth Hall, the Director of Social Services at New Life Adult Day Care Center, to testify on behalf of the applicant since the New Life Adult Day Care Center is similar to the proposed Trucare Adult Medical Day Care Center. Ms. Hall testified that there is an average of 120 participants at the day care center on a daily basis; she also testified to the weekly activities and responded to questions from the Board about the manner in which the day care center is conducted.

Ather Usmani gave testimony concerning the Bus Schedule of pick-up and drop-off of members anticipated at the site. The Schedule was marked into evidence as "R-3."

Mr. Carlet cited the statute for inherently beneficial use as well as proofs for a D-1 use variance which requires the site suitability provision.

After a review of the testimony, Comr Roy Noonburg moved to grant the application as a D-1 use variance, citing that the site is suitable for the proposed use. Comr Noonburg further instructed the Counsel Secretary to prepare the proper Resolution for approval of the D-1 use variance. The motion was seconded by Comr Michael Molner. Voting for the motion were Comrs Michael Molner who stated that, in his opinion, the site is suitable; Comr Daniel Trenk voted for the approval, citing the fact that it is a less intense use than a permitted use; Comr Louis DeStefano who stated that the additional information provided by the applicant

resolved any ambiguities in the testimony previously given to the Board; Comr George Foukas voted in the negative, citing the fact that he was concerned with the traffic impact that the site may generate. Voting in the affirmative was Vice-Chrmn Gerard Scorziello who stated that in the previous hearing, he thought that the proposal was a good idea, however the testimony was unclear, fragmented, and not laid out well; and Chrmn Mark Zecchino voted in the affirmative, citing the fact that, in his opinion, it is not an inherently beneficial use and that the site is suitable and less intense than other permitted uses which may be developed at the site. By a six to one 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.

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,
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.

NOTE: REVISED PLAN ON FILE

Lawrence A. Calli, Esq., with offices at 3 Briarcliff Terrace, Kinnelon, New Jersey, appeared on behalf of the applicant. Sean R. McGowan, Esq., with offices at 777 Terrace Avenue, Hasbrouck Heights, New Jersey, appeared on behalf of objector, Hickory Lake Associates, LLP; and Frank Fusco, Esq., of 15 Princeton Street, Clifton, New Jersey, appeared on behalf of objector, Richard Leonardis, and a number of the neighbors who were served with notice.

Present and sworn on behalf of the applicant was Mark C. Walker of Dykstra, Walker Design Group, 21 Bowling Green Parkway, Lake Hopatcong, New Jersey; and Charles D. Olivo of Stonefield Engineering and Design, LLC, traffic engineers, with offices at 92 Park Avenue, Rutherford, New Jersey. Present were the following objectors, some of whom were sworn to give testimony: Mary Sadrakula, Dwasline Road; Richard Leonardis, 10 Main Ave.; Laura Varvaro, 44 Hall St.; Eileen Vernalekin, 40 Hall St.; Gladys Shefchik, 38 Hall St.; Phyllis Sibello, 20 Paterson Ave.; Colleen Dolan, 27 Paterson Ave.; and Robin Speer, 19 Princeton St. (names are typed as handwritten on sign-in sheet).

This is a continued hearing from the meetings of May 17, 2017, July 19, 2017, November 1, 2017, January 17, 2018, and April 4, 2018.

Mr. Dykstra testified that he is responding to the comments set forth in the report of Neglia Engineering dated May 10, 2017, and revised January 5, 2018; that the applicants will be providing parking for 17 vehicles. There was no cross-examination by Mr. McGowan.

Objector Mary Sadrakula inquired as to whether the applicant will provide a sewer application. Mr. Walker responded in the affirmative.

Present and sworn on behalf of the applicant was Charles Olivo of Stonehill Engineering and Design of 92 Park Avenue, Rutherford, New Jersey. He reiterated the testimony previously given at the meeting on July 19, 2017; that the proposal for a drive-thru has been withdrawn; that 17 parking spaces are provided at the site. He also responded to the issue of parking problems raised by Comr Roy Noonburg.

On cross-examination by objector Mary Sadrakula, Mr. Olivo testified that 34 parking spaces are required, 17 spaces are provided; that there will be 5 employees, each requiring a parking space and also a handicap space, resulting in a total of 11 spaces available for customers to the site.

Peter Steck of 80 Maplewood Avenue, Maplewood, New Jersey, testified on behalf of the objectors and stated that the site in question is 2,140 square feet of

building; that there will be no drive-thru; that the applicant will provide 17 parking spaces; that the area is surrounded by intensive uses along with some residential and some commercial uses; that the 2003 Master Plan at Page Nos. 38 and 43 discuss parking and design goals; that the Master Plan in 2008 also reiterated the goals and objectives; that the premises are in a P-MU, and the uses are set forth in the Kathryn Gregory report dated May 9, 2017; that the present zone ordinance does not permit fast food restaurants; that under the definition of fast food restaurants, 34 parking spaces are required; that testimony was given on behalf of the applicant by Frank D. Mileto, and he is challenging the testimony given; that in his opinion, there are other uses allowed in the zone which may be utilized; that Mr. Mileto testified as to Sections (a) and (i) of the Land Use Law N.J.S.A. 40:55D-2 which, in his opinion, do not apply; that the fast food operation, if permitted, requires 35 parking spaces; that the National Standard for Parking agrees with the Clifton standards with regard to fast food parking; that the applicant has provided no testimony to substantiate special reasons; that there was no testimony concerning the negative criteria; that in his opinion, the site is too small to accommodate the proposed fast food restaurant; that there is no parking on Main Avenue which will contribute to the parking problem at the site; that there are other uses that may be utilized at the site; that the site is not particularly suited for the proposed fast food restaurant; that it is not an appropriate use; that the applicant has failed to satisfy the burden of proof required for the grant of a D-1 use variance; that in his opinion, the proposal would impair the intent and purpose of the master plan and the zone ordinance; that the proposed use is too intense for the site.

At this point in the hearing, there was a discussion concerning the scheduling of a new date, additional testimony to be given by the objector's planner, and the receipt of a sewer report.

Thereupon, Chrmn Mark Zecchino scheduled the matter for July 18, 2018, with no further adjournments permitted.

2.	YESHIVA KTANA OF PASSAIC, INC.
Variances	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.

3.

Francisco Aguilar, 61 Knapp Avenue, Block 3.09, Lot 4 – RB2 –
- Variances

Variances required for a two-story rear deck:

1) Rear yard proposed at 15’ where 35’ is required;

2) Lot coverage proposed at 33.24%

- where a maximum of 25% is permitted;
- 3) Proposed deck is separated from the garage by 4' where 10' is required;
- 4) Existing, nonconforming lot width and area.

The applicant, residing at 61 Knapp Avenue, Clifton, New Jersey, was present and sworn. Also present and sworn as Eddy Callixto, the son of the applicant who would interpret from Spanish.

Through his interpreter, Mr. Aguilar testified that he requests variance approval for a two-story rear deck; that the rear yard setback requirement is 35 feet, and he is proposing 15 feet; that the lot coverage requirement is 25 percent, and he is proposing 33.24 percent; that the proposed deck is separated from the garage by 4 feet where 10 feet is required; that there will be no deck on the first floor.

After a review of the testimony, Comr Louis DeStefano moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Comr Keith LaForgia. Voting for the motion were Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting against the motion was Comr Roy Noonburg. By a six to one 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. SHAH PANKAJ, 154 Elmwood Drive,
Variance Block 22.24, Lot 25 – RA3 – Homeowner
 proposes to enclose the existing front
 stoop that currently has a roof over it.
 A variance is required for front yard

setback. Front yard is proposed at 20.4’
where 25’ is required.

The applicant, residing at 154 Elmwood Drive, Clifton, New Jersey, was present and sworn. There were no objectors.

Mr. Pankaj testified that he proposes to enclose the existing front stoop that he currently has a roof over; that a variance is required for a front yard setback; that the front yard setback requirement is 25 feet, and the applicant is proposing 20.4 feet.

After a review of the testimony, Comr Keith LaForgia moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variance requested. The motion was seconded by Comr Daniel Trenk. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, 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.
- JOSEPH & AILEEN LAIHEE, 4 View Place
- Variance
- Block 27.03, Lot 32 – RA2 – Applicant
proposes an in-ground pool in the rear yard.
A variance is requested for the street side
yard setback where 14.5’ is proposed and
25’ is required.

Joseph Laihee of 4 View Place, Clifton, New Jersey, was present and sworn. Also present and sworn was Michael Spillane of Anthony Sylvan Pools, 420 U.S. 46 East, Fairfield, New Jersey. There were no objectors.

Mr. Laihee testified that he requests variance approval for an in-ground pool in the rear yard; that a variance is requested for the street side setback where 14.5 feet is proposed and 25 feet is required.

Mr. Spillane testified that due to the irregular shape of the property, this is the only possible location for the swimming pool.

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 variance requested. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, 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.

SPECIAL MEETING – JULY 25, 2018

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| 1. | CLIFTON CHEDER, 1333 Broad Street, |
| Use | Block 76.01, Lot 5 – B-A – The Applicant |
| Variance; | seeks preliminary and final site plan |
| Variances | approval and a (D)(3) conditional use |
| | variance for a private elementary school |
| | in the B-A Zone District. The following |
| | conditions of the conditional use are not |
| | being met and require variances as |
| | follows: |

With respect to the lot width, pursuant to Section 461-27, a lot width of 150 ft. is required and 133 ft. is existing and proposed.

With respect to the maximum lot coverage, pursuant to Section 461-27, 20% is the maximum permitted and 24.74% existing and proposed.

With respect to the minimum side yard, 20 ft. for one (1) and 40 ft. for both, pursuant to Section 461-27 is required, and 18.87 ft. for one (1) and 42.74 ft. for both is existing and proposed.

This application to the Board of Adjustment is being made for a (D)(3) conditional use variance for a private elementary school and noticed to the public pursuant to N.J.S.A.40:55(D)(3).

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. The Application, Plans and papers in connection with the Application are available for public inspection at the Zoning Division of the City of Clifton, Clifton, New Jersey, between the hours of 9 A.M. and 3 P.M. Any interested party may appear at said hearing and participate therein in accordance with the rules of the Board of Adjustment.

Chrmn Zecchino announced that a special meeting to be held on July 25, 2018. The Board is also in receipt of correspondence dated May 10, 2018, from Attorney Geffner regarding the application.

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Chrmn Zecchino reminded the members of the Board that the meeting initially scheduled for June 20, 2018, has been re-scheduled to June 27, 2018, and appropriate notice has been given.

RESOLUTIONS

Chrmn Mark Zecchino announced that the next order of business would be the adoption of the Resolutions set forth on the Agenda:

1. Upon motion made by Comr George Foukas, seconded by Comr Keith LaForgia, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of CARLOS SUAREZ AND NELY ALTAMIRANO for a rear addition on a non-conforming two-family home and a new detached garage at 42 Paterson Avenue, Block 82.02, Lot 64, was adopted. RA3

2. Upon motion made by Comr George Foukas, seconded by Comr Keith LaForgia, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of RICHFIELD MEWS, LLC for a subdivision, use variance, and variances to permit construction of a 35-unit townhouse development at 1187 Van Houten Avenue, Block 40.05, Lot 1, was adopted. B-B and RA3

3. Upon motion made by Comr Roy Noonburg, seconded by Comr Keith LaForgia, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of LEVIN MANAGEMENT CORP. (CLIFTON PLAZA) for preliminary and final site plan approval, sign variance, parking variance, use variance, and conditional use variance to permit operation of a restaurant or café in a proposed new supermarket with approximately

88 seats in the mall known as CLIFTON PLAZA at 1010 Route 46 West, a/k/a Route 46 West and Van Houten Avenue, Block 39.01, Lot 23, was adopted. B-D

4. Upon motion made by Comr Louis DeStefano, seconded by Comr Keith LaForgia, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOSEPH & AMIE KOLODZIEJ for front yard setback variance at 26.9 feet at 109 McCosh Road, Block 62.05, Lot 44, was adopted. RA1

5. Upon motion made by Comr Roy Noonburg, seconded by Comr George Foukas, and affirmed by Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of 65 INDUSTRIAL CLIFTON, LLC for amended height variance at 65 Industrial South & 35 Bloomfield Avenue, Block 56.08, Lots 4 and 13, was adopted. M-1

There being no further business before the Board, Comr Louis DeStefano moved to adjourn. The motion was seconded by Vice-Chrmn Gerard Scorziello with the unanimous approval of the entire Board.

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF JUNE 6, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: TRUCARE ADULT MEDICAL DAY CARE LLC
for premises known as: 1111 Paulison Avenue, Block 19.03, Lot 1
be and the same is hereby: GRANTED use variance to permit an adult medical day care center and bulk variances for parking.

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 6, 2018. Said testimony including the application and the plans and exhibits on file as well as the remanded Court Order are incorporated herein by reference and made a part hereof.

WHEREAS, the Board previously denied a use variance application for the applicant on July 19, 2017, at premises located at 1111 Paulison Avenue, Block 19.03, Lot 1, which premises are located in an M-1 zone; and

WHEREAS, the applicant took an appeal to the Superior Court challenging the decision of the Zoning Board of Adjustment; and

WHEREAS, the Superior Court, after considering oral argument presented by counsel for the applicant and counsel for the defendant, Zoning Board of Adjustment of the City of Clifton, the Court entered an Order denying plaintiff's motion for summary judgment and ordered that the case be remanded to the Board for additional testimony; and

WHEREAS, in compliance with the Order of the Superior Court, testimony was taken by the Board at its meeting on June 6, 2018, said testimony and the 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 came before the Board, and its application was denied as aforesaid; and

WHEREAS, the hereinabove recitals concerning the history of this application are incorporated herein by reference and made a part hereof; and

WHEREAS, the applicant is now before the Board on a remand in compliance with the provisions set forth in the Order of the Superior Court dated April 18, 2018; and

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

a. The applicant proposes an adult medical day care center and bulk variances for parking where 107 spaces are required and 80 spaces are provided;

b. The previous testimony presented by the applicant's witnesses on June 21, 2017, was ambiguous, fragmented, and unclear which resulted in a denial of the application on July 19, 2017;

(CONTINUED)

(CONTINUED)

c. The applicant has presented into evidence "Exhibit R-1" which is a schedule of the weekly activities of the adult day care center; "Exhibit R-2" which is a certification from the Director of a similar-type adult day care facility located in another jurisdiction; and "Exhibit R-3" which is a bus schedule pick-up and drop-off of the patients coming to and going from the premises;

d. The three exhibits have added clarity to the application and have addressed the ambiguities in the prior testimony;

e. Based on the aforesaid testimony, the Board now finds that the proposed use is less intense than a permitted use;

- f. The site is suitable for the proposed use;
- g. Based upon the State Statute, the site is not an inherently beneficial use;
- h. The approval given herein is for a D-1 use variance because of the suitability of the site;
- i. The applicant has shown sufficient hardship to justify the grant of the parking variance due to the irregular shape of the property;
- j. The benefits of the application outweigh the detriments;
- k. The applicant has satisfied the positive and negative criteria required for the grant of the use variance; 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 it is a lesser intense use than a permitted use; and

WHEREAS, based upon the bus schedule submitted into evidence, the proposal will help promote the health, safety, and general welfare at the site;

NOW THEREFORE, BE IT RESOLVED that the application for an adult medical day care center at premises located at 1111 Paulison Avenue, Block 19.03, Lot 1, be and the same is hereby approved and the use variance to permit an adult medical day care center and bulk variances for parking 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.

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 MICHAEL MOLNER.

Affirmed by: Comrs Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg,
Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF JUNE 6, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: FRANCISCO AGUILER
for premises known as: 61 Knapp Avenue, Block 3.09, Lot 4
be and the same is hereby: GRANTED variances for a two-story rear deck.

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 6, 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 Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variances for a two-story rear deck at premises located at 61 Knapp Avenue, Block 3.09, Lot 4, which premises are located in a RB2 zone; and

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

- a. The applicant proposes a two-story rear deck;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 15 feet;
- c. The lot coverage requirement is 25% and the applicant is requesting 33.24%;
- d. The proposed deck is separated from the garage by 4 feet where 10 feet is required;
- e. There is an existing, non-conforming lot width and area at the premises;
- f. The applicant has shown sufficient hardship to justify the grant of the variance 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;

NOW THEREFORE, BE IT RESOLVED that the application to erect a two-story rear deck at premises located at 61 Knapp Avenue, Block 3.09, Lot 4, be and the same is hereby approved and the bulk variances for rear yard, lot coverage, space between deck and garage, and existing, non-conforming lot width and area 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 LOUIS DE STEFANO.

Seconded by: Comr KEITH LA FORGIA.

Affirmed by: Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF JUNE 6, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: SHAH PANKAJ
for premises known as: 154 Elmwood Drive, Block 22.24, Lot 25
be and the same is hereby: GRANTED a front yard setback variance to enclose an existing front stoop that currently has a roof over it.

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 6, 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 Keith LaForgia moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid to enclose the existing front stoop which has a roof over it at premises located at 154 Elmwood Drive, Block 22.24, Lot 25, which premises are located in a RA3 zone; and

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

- a. The applicant presently has a stoop which has a roof over it;
- b. The applicant now requests approval to enclose said stoop;
- c. The front yard setback requirement is 25 feet, and the applicant is proposing 20.4 feet;
- d. The applicant has shown sufficient hardship to justify the grant of the variance 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 there has been no testimony presented to show that the proposal will be detrimental to the health, safety, and general welfare of

the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to enclose a front stoop currently existing with a roof over it at premises located at 154 Elmwood Drive, Block 22.24, Lot 25, be and the same is hereby approved and the front yard setback 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 KEITH LA FORGIA.

Seconded by: Comr DANIEL TRENK.

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

MEETING OF JUNE 6, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JOSEPH & AILEEN LAIHEE
for premises known as: 4 View Place, Block 27.03, Lot 32
be and the same is hereby: GRANTED variance for street side yard setback for an in-ground pool in the rear yard.

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 6, 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 variance approval as aforesaid for an in-ground swimming pool at premises located at 4 View Place, Block 27.03, Lot 32, which premises are located in a RA2 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 an in-ground pool in the rear yard of the subject premises;
- b. The side yard setback requirement is 25 feet, and the applicant is proposing 14.5 feet;
- c. Based upon the testimony of the applicant's expert, the site selected by the applicant is the only feasible site for installation of the pool due to the irregular shape of the property;
- d. The applicant has shown sufficient hardship to justify the grant of the variance 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 there has been no testimony presented to

show that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to install an in-ground pool at premises located at 4 View Place, Block 27.03, Lot 32, be and the same is hereby approved and the 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 GEORGE FOUKAS.

Seconded by: Comr KEITH LA FORGIA.

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