

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, July 18, 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 June 27, 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,	
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., of Bertone Piccini LLP 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 other objecting neighbors.

This is a continued hearing from the meetings of May 17, 2017, July 19, 2017, November 1, 2017, January 17, 2018, April 4, 2018, and June 6, 2018.

Present were the following objectors to the application, some of whom were sworn to give testimony: Alice Grochola, 16 Princeton St., Clifton; Carmine Mandato, 19 Main Ave., Clifton, NJ; Alex Kattwinkel, Manny Kattwinkel, 3 Essex St., Clifton, NJ; David & Robin Wheeler, 67 Princeton St.; Steven Kattwinkel, 3 Essex St., Clifton, NJ; Carol Richter, 21 Hall St., Clifton, NJ 07014; Gordon Wright, 17 Hall St., Clifton 07014; Jeffrey Vallo, 43 Princeton St., Clifton, NJ 07014; Steve Rozett, 11 Paterson Ave., Joyce Marando, 17 Paterson Ave., Nutley; Barbara Rozett, 11 Paterson Ave., Clifton; Imperia Recupido, 64 Princeton St., Clifton; Eileen Vernaleken, 40 Hall St.; Gladys Shefchik, 38 Hall St., Clifton; Laura Varvaro, 44 Hall St.; Frank & Diane Garrido, 50 Hall St.; Christopher Quezada, Vicente Varela, 96 Highland Ave.; Dale Burke, 84 Glendale St., Nutley; M.A. Nutz, 81 Glendale St., Nutley; Pam Leonardis, Jersey Power Equipment, 10 Main Avenue; George Metzger, 54 Hall St.; Deb DeLucca, 23 Princeton St., Clifton, NJ 07014; Colleen Dolan, 27 Paterson Ave.; Angela Marinaro, 23 Paterson Ave.; Phyllis Sibello, 80 Paterson Ave.; Robin Speer, 19 Princeton St.; Russell Burgess, 9 Clay St.; Judith Burgess, 9 Clay St.; Richard Leonardis, 10 Main Ave., Bernard Fevrier, 10 Austin Pl.; Scott Burgess, 9 Clay St.; Jonathan Sweens, 117 Allwood Rd.; Edwardo Lopez, 17 Allwood Rd., NJ; Tatyana Poliskova, Sunflower Day Spa owner, 684 Passaic Av., Nutley, NJ; Ted Mikhailov, 684 Passaic Ave., property owner; and Danny Zhang, 658 Passaic Ave., property owner, Nutley, NJ 07110. Names typed as appear on sign-in sheet.

Present in favor of the application were Alison Cohen; and Hermang Champanora, 51 Grove St., Clifton.

Chrmn Zecchino stated that the Board would hear testimony from the objectors' experts as well as the testimony of those who object to the application, and then the Board would hear closing arguments.

William P. Stimmel of Stimmel Engineering, with offices in Rutherford, New Jersey, was present and sworn. He testified he calculated trip generations and made comparisons to other uses in the area; that in his opinion, the proposed use will add additional traffic to the area which will exacerbate traffic problems; that there is inadequate number of parking spaces at the site; that access to and egress from the site is difficult; that his analysis shows poor parking and circulation layout.

Richard Leonardis testified that he maintains a business at 10 Main Avenue which is across the street from the premises; that he has been at the site for 30 years.

At this point, Mr. Fusco offered into evidence two exhibits:

"O-1" which is a statement indicating the requirements for conducting a franchise with Popeye's, including franchise fees as well as recommended minimum sites.

"O-2" a schedule of accidents which occurred over a two-year period at the Wendy's site.

Mr. Leonardis testified that traffic intensifies from Thanksgiving to New Years; that people going to Kohl's park on Princeton Street; that there have been other individuals coming to his business indicating that they are interested in developing the site; that he has observed other Popeye sites which have more parking than the present site.

Mr. Calli called Charles Olivo of Stonefield Engineering, traffic engineer, who was previously sworn as a rebuttal witness. Mr. Olivo challenged Mr. Stimmel's testimony regarding guidelines utilized to determine parking demands at fast food

restaurant; that in his opinion, the parking is adequate at the site; that the argument that a customer coming to Popeye's will continue to circulate around the site for parking if none is available, is not practical.

At this point in the hearing, Chrmn Zecchino stated that the Board would hear closing arguments from counsel and the objectors.

Mr. Fusco stated that the applicant has failed to sustain the burden of proof; that there are problems with traffic, inadequate parking, area is too intense for the proposed use; that the use will bring more traffic; that it is negative for the neighborhood. In addition, there is a problem with garbage and noise associated with this type of use.

Many of the concerned citizens who sat through the hearings and objected to the application were given the opportunity to verbally express their objections to the application which included, but were not limited to:

1. Bringing more traffic to the area;
2. Inadequate parking;
3. A use that is detrimental to the neighborhood;
4. Garbage;
5. Noise;
6. The use would exacerbate the present traffic problems.

In his closing statement, Mr. McGowan stated that the applicant has failed to sustain the burden of proof required for the grant of a use variance; that there are no special reasons for the grant of the use variance; that the applicant has not satisfied the negative criteria required for the grant of a use variance; that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood; that there has been no hardship shown to satisfy the requirements for the bulk variance; that the site is not suitable for the proposed use; that the proposal is not in accord with the provisions of the master plan and will be detrimental to the public good.

In his closing statement, Mr. Calli stated that the applicant has sustained the burden of proof required for approval of the application; that there was substantial testimony submitted from experts to satisfy the positive and negative criteria; that the site is suitable for the proposed use; that Popeye's franchise group did approve the site for the proposed use; that the applicant has shown sufficient hardship to satisfy the bulk variances required; that the objections made are speculations and not factual; that there were no proofs submitted to support the arguments of the objectors; that the proposal does not impair the intent and purpose of the master plan and the zone ordinance; that the benefits of the application outweigh the detriments, if any; that the purposes of zoning will be advanced by this application.

After hearing the closing statements of applicant's counsel, the objectors' counsel, and the objectors, Chrmn Zecchino called for a motion. Thereupon, Comr Louis DeStefano moved to grant the application, citing the fact that their experts did, in fact, give testimony to support the grant of the use variance; that this proposal will be good for the City of Clifton; that the benefits of the application outweigh the detriments, if any; that the burden of proof has been satisfied. Comr DeStefano also indicated that there would be several stipulations added which included, but not limited to, hours of operation from 10 A.M. to 10 P.M.; no trash pick-up before 8 A.M.; no drive-thru; compliance with all requirements of the Police Department and Fire Department of the City of Clifton; and approval be limited solely to Popeye's restaurant and no third parties. The motion was seconded by Vice-Chrmn Gerard Scorziello who stated that in analyzing the application, all emotion must be put aside; that the Board must comply with the law concerning use variance; that change is necessary; that in his opinion, the experts submitted by the applicant have satisfied the burden of proof required for the grant of a use variance. Voting for the motion were Comr Daniel Trenk who stated that this is a good use for the site; Comr Louis DeStefano who stated as set forth above; and Vice-Chrmn Gerard Scorziello whose statements have been previously given. Voting against the motion were Comr Michael Molner who stated that he is familiar with the area and fears that it will create more congestion; Comr Keith LaForgia who also stated that the proposal will be detrimental to the neighborhood; Comr Roy Noonburg also voted in the negative, indicating that the recommended minimum size required for such a proposal is 28,000 square feet and the applicant

is proposing 16,000 square feet, showing a deficit of 12,000 square feet which creates a situation where there is inadequate parking facilities; Chrmn Mark Zecchino also voted in the negative, stating that based upon all the testimony presented, the site is not suitable for the proposed use due to the inadequate parking and does not satisfy the requirements for the grant of a use variance as set forth in N.J.S.A. 40:55D-2. There were three affirmative votes and four negative votes. Counsel Pogorelec ruled that pursuant to the statute in question, the failure of the applicant to obtain five affirmative votes is deemed an action denying the application. Thereupon, the application was denied by operation of law in the form as more fully appears at the end of these Minutes. The Counsel Secretary was instructed to prepare the proper Resolution.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

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.

Chrmn Zecchino announced that both counsel for the applicant and the objectors
have requested an adjournment and that the matter would be continued until October
17, 2018.

3. CLIFTON SAFE STORAGE, LLC,
Use 1204 Broad Street (County Road 509)
Variances;Block 64.03, Lot 2 – B-D – Application
Variances for a use variance under N.J.S.A.
 50:55D-70(d)(1), a height variance
 under N.J.S.A. 40:55D-70(d)(6),
 preliminary and final major site plan
 approval along with related bulk variances
 and design waiver/exception relief:
 Applicant seeks approval to construct a
 self-storage facility of approximately
 174,655 sq.ft. along with related site
 improvements, including, but not
 limited to, landscaping, lighting, parking
 and signage. A self-storage facility is not
 a permitted use in the B-D zone, therefore,
 Applicant seeks a use variance under
 N.J.S.A. 40:55D-70(d)(1). The Application
 also requires a height variance under
 N.J.S.A. 40:55D-70(d)(6) as the proposed
 building height is greater than permitted
 (40 ft. permitted, 53.3 ft. proposed).

In addition Applicant seeks certain bulk variances and design waivers/exceptions, including:

- (1) Number of stories greater than permitted (3 stories permitted, 5 stories proposed);
- (2) Loading space width less than required (12 ft. required, 10 ft. proposed);
- (3) Loading space length less than required (25 ft. required, 24 ft. proposed);
- (4) Parking Spaces, parking aisles, and vehicular maneuvering area within 10 ft. of a corner side lot line where such is not permitted (3.2 ft. proposed);
- (5) Parking Spaces, parking aisles, and vehicular maneuvering area within 5 ft. of any other lot line where such is not permitted (3.2 ft. proposed);
- (6) Number of parking spaces less than required (88 required, 11 proposed);
- (7) Number of loading spaces less than required (19 required, 8 proposed);
- (8) Area of building signs greater than permitted (586.05 sq.ft. permitted, 1,198 sq.ft. proposed);
- (9) Parking proposed in the front yard where such is not permitted.

Applicant also seeks any additional deviations, exceptions, design waivers, submission waivers, variances, interpretations, continuations of any pre-existing non-conforming conditions, modifications of prior imposed conditions and other approvals reflected on the filed plans (as same may be determined

to be necessary during the review and processing of the Application.

Jason R. Tuvel, Esq., of Rubin & Dombeck, LLC, with offices at 141 Ayers Court, Suite 1B, Teaneck, New Jersey, appeared on behalf of the applicant. Present and sworn was Keenan Hughes, a planning consultant with Phillips Preiss, with offices at 33-41 Newark Street, Hoboken, New Jersey. There were no objectors.

This is a continued hearing from the meeting of June 27, 2018.

Mr. Tuvel stated that the applicant has submitted a revised proposal to demolish the existing buildings on the site and construct a 174,655 square foot, 4-story self-storage facility with 11 parking spaces and 8 loading spaces; that the property is in a B-D intensive business zone, irregular in shape with frontage along Broad Street. The applicant was initially seeking a D(6) height variance which has been eliminated, and the building now appears as set forth in a photograph which has been offered into evidence as "A-10" of the proposed site.

Mr. Hughes testified as a planner and stated that the applicant proposes to demolish the existing buildings on the site in question and construct a 174,655 square foot, 4-story self-storage facility with 11 parking spaces and 8 loading spaces; that access to the site is proposed via a two-way drive in the eastern portion of the property; that the changes to the application include reducing the front portion of the building to 2-stories, then 3-stories, then 4-stories in the rear, each over a cellar floor; that the proposed height has been reduced from 53.3 feet to 42.7 feet which has eliminated the D(6) height variance; however, a "c" height variance is still required.

Mr. Hughes continued to testify that the applicant will require the following "c" variances:

~Building height – number of stories. 3 stories permitted, 4 stories proposed, 1 story variance required.

~Building height – feet. 40' permitted, 42.7' proposed, 2.7' variance required.

~Loading space size. 12' x 25' x 15' (height) required, 10' x 24' x 18' (height) proposed, variance required.

~Number of parking spaces. 88 parking spaces required, 11 parking spaces proposed, 77 parking space variance. Self-storage facilities are typically a low-intensity use and generate a very low parking demand.

~Square footage of building signs 461 – 56(D). B-D districts: (1) Permitted business signs: 2.5 times the total principal street frontage plus 1.0 times the secondary street frontage in the case of a corner lot. 2.5 times 234.42' = 586.05 SF permitted, 1,052 SF proposed, 465.95 SF variance.

~Parking in front yard. §461-60 E. Off-street parking or loading spaces, parking aisles or maneuvering areas shall not be located in any required front yard. Parking located in front yard. Variance required.

With regard to the special reasons, Mr. Hughes testified that the proposal satisfies Sections a, c, and i of N.J.S.A. 40:55D-2 which is the positive criteria section of the statute; that the applicant has satisfied the negative criteria in that there will be no detriment to the public good and that the proposal satisfies the master plan; that the site is particularly suited for the proposed use; that the proposal would be less intense than a permitted office building.

Chrmn Zecchino indicated for the record that the proposed changes made by the applicant have satisfied some of the concerns of the Commissioners.

After a review of the testimony, Comr Keith LaForgia moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the stipulation that the applicant drop the height of the parapet wall located in the rear to be even with the rest of the structure. 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.

NEW HEARINGS

- | | |
|-----------|---|
| 1. | CUENCA CORONEL REALTY, LLC, |
| Use | 87-109 Wabash Avenue, Block 5.07, |
| Variances | Lot 9 and 11 – M-2 – Applicant proposes to utilize property for storage and maintenance of vehicles for the applicant’s construction trucking business. No physical changes will be made to property. Applicant requires a D-3, conditional use variance, as the existing building and lot does not meet bulk requirements. D-1 use variance required for existing mixed use. Preliminary and final site plan approval requested. Together with any other relief deemed necessary by the Board. |

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Suite 105, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Mauro Cuenca of 87 Wabash Avenue, Clifton, New Jersey; and Peter Steck, a planner, with offices at Maplewood Avenue, Maplewood, New Jersey. There were no objectors.

Mr. Peterson stated that the applicant requests approval to utilize property for storage and maintenance of vehicles for the applicant’s construction trucking business; that there will be no physical changes made to the property; that a D-3 conditional use variance is required since the applicant does not meet the bulk requirements of the conditional use variance; that a D-1 use variance is also required for the existing mixed use; that the applicant will have nine employees; that the hours of operation will be from 6 A.M. to 6 P.M., Monday through Friday; that the applicant’s business consists of maintenance, tire changes, and oil changes; that the old oil will be removed and disposed of from the site; that there will be no towing.

Mr. Peterson stated that he has made representations to the Board, and Mr. Cuenca affirmed that the representations made are true and accurate.

Mr. Steck testified from an exhibit which was marked into evidence as "A-1;" that the exhibit consists of four pages with photographs of the property and a section of the Master Plan which shows the existing land use patterns in the area. Mr. Steck continued to testify that the applicant's business consists of maintenance of trucks; that the two-family dwelling on the site will be retained; that the applicant requires conditional use variance as well as a use variance for two principal uses on the site; that there is appropriate storage space for trucks; that in his opinion, the application satisfies the positive and negative criteria required for the grant of a use variance; that the applicant services 51 dump trucks and will stipulate that there will be more than 51 dump trucks at the site.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the D-1, D-3 use variance, and preliminary and final site plan approval. The motion was seconded by Comr George Foukas. 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.	IVO & KANIA RODRIGUEZ,
Use	214 Trimble Avenue, Block 6.16,
Variance;	Lot 5 – B-C – Applicant proposes
Variances	to merge lot 11 into lot 5. Existing
	house on lot 11 to be demolished.
	Proposed construction of a new
	building to contain auto body shop

with painting booth and vehicle storage. Use variance required for auto body shop on former lot 11 which is within the R-B1 zone. New building requires bulk variances for front yard, right side yard, and rear yard setbacks. 27 parking spaces required and 21 provided. Any other variances as may be required.

Matthew J. Trella, Esq., with offices at 1135 Broad Street, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was the applicant, Ivo Rodriguez, of 214 Trimble Avenue, Clifton, New Jersey; and William P. Stimmel, PE, PP, PTOE, with offices in Rutherford, New Jersey. There were two objectors, Paul Anderson and Lucille Anderson of 182 Christie Avenue, Clifton, New Jersey.

Mr. Trella stated that the applicant proposes to merge Lot 11 into Lot 5, with the existing house on Lot 11 to be demolished; that the applicant proposes construction of a new building to contain auto body shop with a painting booth and vehicle storage; that a use variance is required for auto body shop on former Lot 11 which is within the RB1 zone; that in addition, the new building requires bulk variances for front yard, right side yard, and rear yard setback; that 27 parking spaces are required and 21 will be provided.

Mr. Stimmel gave testimony as a traffic expert and stated that the applicant satisfies the positive and negative criteria required for the grant of a use variance; that the site is suitable for the proposed use; that in addition to the use variance, the applicant requires bulk variances for front yard setback, right side yard, and rear yard setback; that the applicant proposes 21 parking spaces where 27 parking spaces are required.

In objecting to the application, Paul Anderson and Lucille Anderson testified that there are parking problems in the area, and the proposal will generate more traffic; that repaired vehicles are parked on the public street; that new cars are also parked on Route 46 which intensifies the traffic in the area.

Ivo Rodriguez testified from an exhibit which was marked into evidence as "A-1" showing photographs of the site; that repairs are done indoors; that he does not sell cars at the premises, only repairs vehicles; that he does not park repaired vehicles on the public street; that there are no cars parked on Route 46 in front of Christie Avenue.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution, citing the fact that the expansion of the premises will improve the traffic and parking at the site. The motion was seconded by Comr Keith LaForgia. Voting in the affirmative were Comrs Daniel Trenk, Louis DeStefano, Keith LaForgia, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting against approval 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.

3. MIRIAM/ONE LLC, 94 Highland
Variances Avenue, Block 4.21, Lot 12 – RB3 –
Applicant owns a vacant lot that is
4998 square feet. Applicant proposes
a two-family dwelling with four off
street parking spaces. The following
variances are required:
- 1) Lot coverage proposed at 35% where
25% is permitted.
 - 2) Street side yard proposed at 6' where 10'
is required.
 - 3) Left side yard proposed at 10' where 12'
is required.
 - 4) Combined side yards proposed at 16'
where 24' is required.
 - 5) Minimum lot area for a two-family is 7500

sq. ft. and 4998 sq. ft. provided.
6) Such other variances as may be required
by law.

Chrmn Zecchino announced that notice in the above-captioned matter was defective, and the matter would be reset for hearing on August 15, 2018, to correct the deficiency.

SPECIAL MEETING – JULY 25, 2018

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 this matter has been scheduled for a special hearing on July 25, 2018.

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 Keith LaForgia, seconded by Comr Daniel Trenk, 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 SOHEL KHAN for a rear yard setback variance and right side yard setback variance to build a second floor addition over the existing garage and a roof over the existing deck at 712 Grove Street, Block 62.06, Lot 12, was adopted. RA1

2. Upon motion made by Comr Keith LaForgia, seconded by Comr Daniel Trenk, and affirmed by Comrs Scott Sochon, Michael Molner, Daniel Trenk, Louis DeStefano, Keith LaForgia, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ALLWOOD INVESTMENT COMPANY, A PARTNERSHIP for use variance and bulk variances to eliminate the restaurant and nightclub use at 955 Allwood Road and renovate the existing building to an office building at 925-955 Allwood Road, Block 66.01, Lot 1 and 5, was adopted. B-D

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF JULY 18, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFTON CHICKEN LLC d/b/a POPEYE'S LOUISIANA KITCHEN for premises known as: 6 Main Avenue, Block 82.06, Lot 15 be and the same is hereby: DENIED use variance and bulk variances for a dine-in restaurant facility.

Testimony concerning the aforesaid application was taken by the Board at its meetings on May 17, 2017; July 19, 2017; November 1, 2017; January 17, 2018; April 4, 2018; June 6, 2018; and July 18, 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, there was a motion made to approve the application, which motion received three affirmative votes and four negative votes. Pursuant to N.J.S.A. 40:55D-9(a), the failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application. Counsel Pogorelec ruled that the matter was for a use variance which requires five votes, and only three affirmative votes were obtained. Thereupon, the matter was denied by operation of law as follows:

WHEREAS, the applicant requests use variance and bulk variance approval for a drive-thru restaurant facility at premises located at 6 Main Avenue, Block 82.06, Lot 15, which premises are located in a P-MU zone; and

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

- a. The applicant proposes a dine-in restaurant use and bulk variances;
- b. The applicant produced expert testimony from a planner, traffic consultant, and engineer, and the objectors also presented testimony from a planner and traffic

engineer;

c. The Board evaluated the credibility of each of the expert witnesses and concluded that the applicant failed to sustain the burden of proof required for the grant of a use variance;

d. The Board finds credible the objections raised concerning the application bringing more traffic to the area, inadequate parking, garbage, noise, and exacerbation of present traffic problems in the area;

e. The Board further finds from the testimony presented by the objectors in the neighborhood that the proposal will be detrimental to the neighborhood;

f. The applicant has failed to satisfy the positive and negative criteria required for the grant of a use variance;

g. The applicant has failed to satisfy the hardship requirements required for the grant of the bulk variances;

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

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WHEREAS, the Board finds from the testimony presented that the proposal will 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 proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for a dine-in restaurant at premises located at 6 Main Avenue, Block 82.06, Lot 15, be and the same is hereby disapproved and the use variance, bulk variance, and other relief requested from the Board be and the same are hereby denied.

Resolution moved by: Comr Roy Noonburg.

Seconded by: Comr Keith LaForgia.

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

MEETING OF JULY 18, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFTON SAFE STORAGE, LLC
for premises known as: 1204 Broad Street (County Route 509)
Block 64.03, Lot 2
be and the same is hereby: GRANTED use variance and bulk variances for a self-storage facility.

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 27, 2018, and July 18, 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 use variance and bulk variance approval for a 174,655 square foot, 4-story self-storage facility with 11 parking spaces and 8 loading spaces at premises located at 1204 Broad Street, Block 64.03, Lot 2, which premises are located in a B-D 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 a self-storage facility as aforesaid;
- b. The site is irregular in shape with frontage along Broad Street;
- c. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- d. The applicant has shown sufficient hardship to justify the bulk variances for building height, number of stories; building height variance of 2.7 feet; loading space size; number of parking spaces, 11 provided where 88 are required, square footage of

building signs, and parking in front yard;

- e. The site is suitable for the proposed use;
- f. The proposal is a less intense use than those permitted in the ordinance;
- 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 area;

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NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for a 4-story self-storage facility at premises located at 1204 Broad Street, Block 64.03, Lot 2, be and the same is hereby approved and the use variance along with bulk variances and other approvals required by the applicant be and the same are hereby granted subject to such further governmental approvals as may be required by law with the

following stipulations:

1. That the height of the parapet wall in the rear be reduced to be even with the rest of the structure;
2. 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 Keith LaForgia.

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 JULY 18, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CUENCA CORONEL REALTY, LLC for premises known as: 87-109 Wabash Avenue, Block 5.07, Lot 9 and 11 be and the same is hereby: GRANTED conditional use and use variance and bulk variances for a storage and maintenance facility for a construction trucking business.

Testimony concerning the aforesaid application was taken by the Board at its meeting on July 18, 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 grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variances and bulk variance approvals as aforesaid to utilize premises located at 87-109 Wabash Avenue, Block 5.07, Lot 9 and 11, which premises are located in an M-2 zone for storage and maintenance of vehicles; 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 occupy the site with the use of storage and maintenance of vehicles for the applicant's trucking business;
- b. A single-family home is also located on the premises;
- c. The applicant has satisfied the positive and negative criteria required for the grant of a use variance for more than one use on the lot;
- d. The applicant has satisfied the burden proof for a conditional use variance;
- e. The applicant will have 9 employees and the hours of operation will be from 6 A.M. to 6 P.M., Monday through Friday;

- f. There will be no towing of vehicles at the site;
- g. There will be no sale of motor vehicles at the site;
- h. The applicant has stipulated that there will be no more than 51 dump trucks at the site;
- j. The applicant has satisfied the burden of proof required for approval of the application;
- k. 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

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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 area;

NOW THEREFORE, BE IT RESOLVED that the application for storage and

maintenance of vehicles for construction trucking business at premises located at 87-109 Wabash Avenue, Block 5.07, Lot 9 and 11, be and the same is hereby approved and the use variances and bulk variances 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 VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr GEORGE FOUKAS.

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

MEETING OF JULY 18, 2018.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: IVO & KANIA RODRIGUEZ
for premises known as: 214 Trimble Avenue, Block 6.16, Lot 5
be and the same is hereby: GRANTED use variance approval for an auto body shop with merger of Lot 11 into Lot 5 and demolition of existing structure on Lot 11.

Testimony concerning the aforesaid application was taken by the Board at its meeting on July 18, 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 use variance and bulk variance approval as aforesaid to merge Lot 11 into Lot 5 for an auto body shop at premises located at 214 Trimble Avenue, Block 6.16, Lot 5, which premises are located in a B-C zone; and

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

- a. The applicant proposes to merge Lot 11 into Lot 5 and demolish the existing house on Lot 11 to conduct an auto body shop at the subject premises;
- b. A use variance is required since the former Lot 11 is within the RB1 zone;
- c. The applicant proposes to conduct the repairs indoors;
- d. The applicant does not intend to sell vehicles at the site, simply repair said vehicles;
- e. Repaired vehicles are not parked on the public street, nor are they parked on Route 46;

- f. The proposal will improve the traffic and parking problems in the area;
- g. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- h. The applicant has satisfied requirements for the grant of the bulk variances for front yard, right side yard, and rear yard setback;
- i. The applicant has satisfied the variance for parking where 27 parking spaces are required and 21 are provided;
- j. 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 auto body use presently exists at the site and expansion will improve traffic and parking in the area; and

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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 by removing vehicles off of the public street and on Route 46;

NOW THEREFORE, BE IT RESOLVED that the application for an auto body shop and merge Lot 11 into Lot 5 at premises located at 214 Trimble Avenue, Block 6.16,

Lot 5, be and the same is hereby approved and the bulk variances for front yard, right side yard, and rear yard setbacks as well as parking variance together with the use variance 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 KEITH LA FORGIA.

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