

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, October 3, 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, KEITH LA FORGIA, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR 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 Keith LaForgia, seconded by Comr Scott Sochon, the Minutes of the September 19, 2018, regular meeting were adopted with the unanimous approval of the entire Board.

REMANDED HEARING

1. AHUVA & YEHUNDA WILLIG,
Variance 128 Edgewood Avenue, Block 57.07,
Lot 24 – RA3 – Using the existing single
family structure without a driveway that
terminates at a garage.
1. Applicant seeks to utilize the existing

single family structure and to convert the existing garage to living space.

2. Upon the conversion of the existing garage to living space, the Applicant will require a variance for a driveway that does not serve to convey or transmit a vehicle to a garage.

3. The continuation of any existing variances as may presently exist upon the Property.

4. Any such "site plan approval" as may be required for the alteration of the existing home.

In addition to the foregoing, the Applicant will also seek such other variances, design waivers, or waivers of submission requirements as become necessary or apparent during the pendency of the within matter.

Mark D. Madaio, Esq., with offices at 29 Legion Drive, Bergenfield, New Jersey, appeared on behalf of the applicant. Also present and affirmed was Yehunda Willig of 128 Edgewood Avenue, Clifton, New Jersey. There were no objectors.

Counsel Pogorelec briefed the Board on the procedural background of this case since there were prior applications that were heard in the past year.

The following exhibits were marked into evidence:

"A1" Newspaper Affidavit of Publication with USPS green cards and receipts.

"A1a" Consent Order to Remand to the Clifton Board of Adjustment;

"A2" Resolution from February 21, 2018, Clifton Zoning Board;

"A3" Resolution from December 6, 2017, Clifton Zoning Board;

"A4" Report dated August 21, 2017, from Boston Children's Health Physicians;

"A5" Report dated February 23, 2005, from Boston Children's Health Physicians;

"A6" Written request of applicants dated December 19, 2017;

"A7" Report dated August 17, 2017, from Center for Learning and

Neurodevelopment; and

“A8” Four photographs of the applicants’ handicapped child.

Mrs. Willig stated that her son is 13 years old with a diagnosis of cerebral palsy spastic triplegia; that due to weakness and tone abnormalities, he is unable to safely ambulate without close supervision; that his movements are poor, and maintaining his balance on stairs is very difficult; that he has come a long way, but continues to walk with an unsteady dystonic gait and poor coordination; that his home should be designed and outfitted in a way that provides a safe setting, to enable him to be as independent as possible while minimizing his risk of falling and/or injury; that she requests variance approval to convert the garage of her new home into a first floor bedroom which will be safe and accessible for her son, and allow him to be as independent as possible within his environment; that she plans to add bollard supports to the garage walls to reinforce them for safety purposes.

Mr. Madaio briefly argued the appropriate State statutory and Federal authority relevant to the analysis governing the element of “reasonable accommodation” that may be applicable in the pending matter given the fact that the applicant testified that she has a special needs child residing at the premises.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application with the stipulation that the applicant install bollard supports to reinforce the garage walls and 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 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 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.

This matter was previously continued by the Board to the November 7, 2018, meeting.

NEW HEARINGS

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| 1. | THE PASSAIC COUNTY ELKS SPECIAL |
| Use | CHILDREN’S COMMITTEE, 7 Vreeland |
| Variance; | Avenue, Block 10.03, Lot 8 and 13 |
| Variances | (1481 Main Avenue) – B-C – Conditional |

permitted use in the B-C business zone. Applicant is seeking variances to exceed the minimum yard requirements for the front yard, side yard, and rear yard and all other necessary variances and waivers. Variances are also sought to exceed the maximum lot coverage and parking requirements for school use, in order to construct a new therapy room addition on 7 Vreeland Avenue, which will become part of the existing elementary school located at 1481 Main Avenue.

Stephen R. Fogarty, Esq., with offices at 21-00 Route 208 South, Fair Lawn, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: William G. Weiss, Ed.D., Executive Director, North Jersey Elks Developmental Disabilities Agency, 1481 Main Avenue, Clifton, New Jersey; and Yongwoo Chung, PE, Senior Civil Engineer of LAN Associates, 445 Godwin Avenue, Midland Park, New Jersey. There were no objectors.

Dr. Weiss testified that he is the Director of The Passaic County Elks Special Children's Committee which owns the building next to the property in question; that the elementary school serves children with disabilities between the ages of 3 and 13; that the applicant is proposing to utilize the property in question in order to construct a new physical therapy room addition to the elementary school; that the proposal will not increase the number of students, nor would it increase the number of staff currently serving the school.

Mr. Chung testified that the applicant requests use variance approval; that the use is a conditional permitted use in the B-C zone; that the applicant is seeking variances to exceed the minimum yard requirements for the front yard, side yard, and rear yard as well as maximum lot coverage and parking requirements. Mr. Chung described the size, location, how the building is to be acquired, and how it is intended to be used by the applicant; that the application will not produce any additional traffic.

Mr. Fogarty stated in summation that a use variance is requested along with bulk variances; that 7 Vreeland Avenue is presently a residence which will be converted to a physical therapy room and annexed to the elementary school at 1481 Main Avenue; that there will be no expansion of the premises; that there will be no additional staff and no additional students; that the converted space will be used for therapy to be administered by the school.

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. The motion was seconded by Comr Michael Molner. 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. **YAKOV MORSEL, 39 Annabelle Avenue,**
Variances **Block 71.03, Lot 33 – RA3 – Applicant**
proposes to build a second floor addition of the existing first floor. The following variances are required:
- 1) Rear yard proposed at 32.69' where 35' is required;
 - 2) Right side yard proposed at 5.8' where 6' is required;
 - 3) Combined side yards proposed at 11.8' where 16' is required.

The applicant, residing at 39 Annabelle Avenue, Clifton, New Jersey, was present and affirmed. Present and sworn in opposition to the application was Josephine Solano, 33 Annabelle Avenue, Clifton, New Jersey. Also present and

sworn as an interested party was Linda Gross, 43 Annabelle Avenue, Clifton, New Jersey.

Mr. Morsel stated that he proposes to expand the existing single-family home with a second floor add-a-level; that a variance is required for rear yard setback of 32.69 feet which is existing and proposed where 35 feet is required; that the combined side yard setback is 11.8 feet which is existing and proposed where 16 feet is required; that the right side yard is proposed at 5.8 feet where 6 feet is required; that a lot coverage variance is required.

Ms. Solano stated in opposition to the application that the expansion will block the sunlight on her premises which she believes is necessary to regularly heat her pool.

Ms. Gross stated that she is in favor of the application.

After a review of the testimony, Comr Roy Noonburg moved to grant the application and 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 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.	POLISH DELICACY HOUSE, INC.
Use	9 & 10 Village Square East, Block 4.24,
Variance	Lot 9 & 10 – PD1 – Applicant seeks to open a wall and expand deli into adjacent vacant space, requiring a use variance and any other variances or waivers required. The present operation (since 1998) will remain the same.

Henry C. Walentowicz, Esq., with offices at 1035 Route 46 East, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was owner Marek Swiatkowski of 9 Village Square East, Clifton, New Jersey. There were no objectors. Present in favor of the application was George Silva of 16 Nino Court, Clifton, New Jersey.

Mr. Walentowicz stated that the applicant seeks to open a wall and expand the existing deli into an adjacent vacant space, requiring a use variance; that the deli has been in operation since 1998, and its operations will remain the same.

Mr. Swiatkowski testified that the applicant seeks to expand the current deli as shown on the plans; that the present operation has been open since 1998; that the current space is small; that the kitchen is not being expanded; that the adjoining room would permit more space for customers and displays; that there would be no negative impact in traffic, health, or safety; that the use has been there for 20 years.

After a review of the testimony, Comr Roy Noonburg moved to grant the application and 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 six 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.

4. Z TRANSPORTATION INC., 53 Clifton
Use Boulevard, Block 31.06, Lot 20 – M-2 –
Variance A use variance for the indoor inspection
 of tractor trailers and the making of
 minor mechanical repairs and site plan
 approval.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Igor Nikolovski, Safety Director, Z Transportation, Inc., 70 Demarest Drive, Wayne, New Jersey; and Allende Matos, AIA, 545 Lexington Avenue, Clifton, New Jersey. The following objectors were present and sworn: Vito DeRobertis, 61 Clifton Blvd., Clifton, NJ 07011; Terry McMahon, 164 Clifton Blvd., Clifton, NJ; and Carolyn DeRobertis, 61 Clifton Blvd., Clifton, NJ 07011.

Chrmn Zecchino acknowledged receipt of report of Neglia Engineering Associates dated September 26, 2017; and report of Gregory Associates dated September 21, 2018.

Marked into evidence was “A-1” which are photographs of the previous owner’s utilization of the property for the same use, i.e. working, collision, and mechanical repairs of tractors and trailers on the site.

Mr. Nikolovski testified that a use variance is required for the indoor inspection of tractor trailers and the making of minor mechanical repairs; that the whole tractor trailer will be on the site for inspection, and there would be up to three tractor

trailers per day; that the premises will be used to inspect and perform minor repairs to tractor trailers; that tractor trailers are not stored on the property; that they are driven there from the applicant's main trucking terminal in Wayne; that they are pulled into the garages where they are inspected by trained mechanics; that any minor repairs which can be done on site will be done there, but any major repairs will be done elsewhere; that the use will function from 8 A.M. to 5 P.M. that when the inspections and any minor repairs are completed, the tractor trailers will be driven back to their main terminal or such other place they may be taken for more extensive repairs; that the applicant will also maintain the existing sign, just changing the name on the sign; that the 25 foot easement from Clifton Boulevard, which parallels the subject property, will not be needed for the use proposed; that the property has a 20 foot wide driveway which can be used both by the employees for their vehicles which will be parked in the front part of the building, and for access by the tractor trailers to get into the property; that because the attractiveness of the building will be substantially improved, it will be a benefit to the neighborhood and it can be granted without any substantial detriment to the public zone plan.

The Board members had questions concerning the number of vehicles which would be inspected per day, and Mr. Nikolovski responded three.

The Board members questioned the number of employees, and the applicant stated he is starting with one and may go up to three employees.

The Board members requested a copy of the 25 foot easement from Clifton Boulevard which parallels the subject property. The objectors questioned the prior use of the above easement. Chrmn Zecchino requested that the applicant's attorney produce the recorded Deed of Easement filed with the Passaic County Clerk's Office.

Marked into evidence as "O-1" is September 27, 2017, report from Passaic Valley Title Service, Inc. referencing the 25 foot wide access easement and corresponding Deeds; and "O-2" is tax map of the City of Clifton showing the neighborhood in question.

Objector Vito DeRobertis stated that he did not own the easement.

Mr. Matos testified that the property in question is located at 53 Clifton Boulevard, Block 31.06, Lot 20; that the subject property consists of an area of 51,400 square feet, or 1.18 acres and is located in the M-2 general industrial zone; that the property is a flag-shaped lot with frontage along Clifton Boulevard to the northeast; that the property is bound by commercial properties to the northeast, northwest, southeast, and southwest; that the subject property is currently improved with an existing, predominantly one-story masonry industrial building with an asphalt parking lot and a driveway to Clifton Boulevard; that the subject property also contains a hangar, shed, signage, and wood stockade fencing; that the applicant proposes to convert the existing use from the leasing of trucks and auto body repairs to the inspection of tractor trailers and a mechanical repair shop; that the applicant proposes new windows, roll-up garage doors, renovations to the first and second floor offices, and the locker room, a new chain link security gate; that the applicant is making electrical improvements and an employee bathroom as well; that the applicant has a 20-foot-wide driveway from Clifton Boulevard; that the intensity of traffic is minimal; he explained in detail how the trucks will come in and out of the driveway; that the applicant requires a D(1) use variance and "C" variances for parking in side yard and parking in rear yard; that the applicant would be able to satisfy all the requirements in the Neglia Engineering report except for 2.13 and references to the 25-foot-wide easement because they did not own the easement; that with regard to grading and drainage, Neglia mistakenly states that the applicant will be paving the area where cars are parked between two buildings and that area was already paved, so it's not going to affect the drainage at all.

The Board then entertained a lively discussion between the applicant, the objectors, and Brian Intindola of Neglia Engineering concerning maintenance and use and upgrade to the easement relevant to any approval rendered in connection with this application. Mr. Carlet stated that he would meet with all the interested parties to discuss the proposed curbing and maintenance of easement.

At this point in the hearing, the matter was continued to the November 7, 2018, meeting of the Board.

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 Scott Sochon, and affirmed by Comrs Scott Sochon, Keith LaForgia, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ARTURO CROCE for right side yard setback variance to add a driveway on the right side of the house proposed 1 foot from the lot line at 33 Summit Avenue, Block 14.21, Lot 8, was adopted. RB2

2. Upon motion made by Comr Roy Noonburg, seconded by Comr Scott Sochon, and affirmed by Comrs Scott Sochon, Keith LaForgia, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MUSIC EXPRESS EAST, INC. for use variance and site plan approval for use of the existing building as the corporate headquarters and bulk variances for parking in the front and rear yards and one stacked parking space at 674 Clifton Avenue, Block 20.07, Lot 19, was adopted. RB2

3. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Keith LaForgia, and affirmed by Comrs Scott Sochon, Keith LaForgia, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of GHOST HAWK BREWING COMPANY for use variance to expand its area and square footage for additional storage at 321 River Road, Block 73.03, Lot 54, was adopted. B-C

4. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Keith LaForgia, and affirmed by Comrs Scott Sochon, Keith LaForgia, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of LAKEVIEW CAPITAL INVESTMENTS, LLC for a use variance for commercial office space on the first floor and 8 one-bedroom

residential units on the second floor at 371 Lakeview Avenue, Block 1.27, Lot 13,
was adopted. B-C

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF OCTOBER 3, 2018.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that
the application of: AHUVA & YEHUNDA WILLIG
for premises known as: 128 Edgewood Avenue, Block 57.07, Lot 24
be and the same is hereby: GRANTED variance for a driveway that does not serve
a garage and to convert the garage to living space.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 3, 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 variance approval for a driveway that does not serve a garage and to convert the garage to living space at premises located at 128 Edgewood Avenue, Block 57.07, Lot 24, which premises are located in an RA3 zone; and

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

- a. The Board previously denied an application for a use variance for an attic powder room and variance for driveway proposed in front of the house not serving a garage on December 6, 2017;
- b. The Board previously denied an application for a variance for a driveway in front of the house not serving a garage on the grounds of *res judicata* on February 21, 2018;
- c. The applicant took an appeal to the Superior Court challenging the decision of the Zoning Board of Adjustment;
- d. Pursuant to Consent Order to Remand dated August 9, 2018, the applicant and the Board stipulated and agreed to a remand of this matter for a hearing on the limited question of approval for a variance for driveway in front of the house not serving a garage;
- e. At the within remand hearing, the applicant testified that she requests approval to convert the garage to a bedroom for her handicapped son;
- f. The proposed renovations may provide for a safe and accessible area for a handicapped child;
- g. The applicant's testimony presented relates to the element of the phrase "reasonable accommodation" when adjudicating a matter pertaining to legal questions raised under the Fair Housing Act and the Americans with Disabilities Act;
- h. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- i. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds that in light of the disability needs of applicants' child, the proposed application will serve as a reasonable accommodation for the said child pursuant to controlling legal authority; and

(CONTINUED)

(CONTINUED)

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 convert the garage to living space at premises located at 128 Edgewood Avenue, Block 57.07, Lot 24, be and the same is hereby approved and the variance for driveway in front of the house not serving a garage be and the same is hereby granted subject to such further governmental approvals as may be required by law **SUBJECT TO THE STIPULATION THAT THE APPLICANT WILL INSTALL BOLLARDS TO PROTECT THE FRONT OF THE GARAGE FROM THE DRIVEWAY.**

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 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 OCTOBER 3, 2018.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that
the application of: THE PASSAIC COUNTY ELKS SPECIAL
CHILDREN'S COMMITTEE
for premises known as: 7 Vreeland Avenue, Block 10.03, Lot 8 & 13
(1481 Main Avenue)
be and the same is hereby: GRANTED use variance and bulk variances to convert
residence to physical therapy room to annex to elementary school at 1481 Main Avenue.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 3, 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 variances for front yard, side yard, rear yard, maximum lot coverage, and parking at premises located at 7 Vreeland Avenue, Block 10.03, Lot 8 and 13, which premises are located in a B-C 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 residential dwelling to a physical therapy room, to be used in conjunction with the school at 1481 Main Avenue;
- b. The applicant and its expert testified that there will be no expansion of the premises, no additional staff, no additional students, and thus, no additional parking demands;
- c. Based upon the testimony of the applicant's expert, the applicant's proposal will not have a detrimental impact at the site and there is adequate parking to satisfy the negative criteria required for a use variance;
- d. The site is particularly suited for the proposed use since the school is directly adjacent to the premises;
- e. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;
- f. 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 since the school at 1481 Main Avenue presently exists and has for many years;

NOW THEREFORE, BE IT RESOLVED that the application to convert a residence to space for physical therapy to be used in conjunction with adjacent school at premises located at 7 Vreeland Avenue, Block 10.03, Lot 8 & 13, be and the same is hereby approved and the use variance and bulk variances be and the same are hereby granted subject to such further governmental approvals as may be required by law **AND SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL, IF REQUIRED.**

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 MICHAEL MOLNER.

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

MEETING OF OCTOBER 3, 2018.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that
the application of: YAKOV MORSEL
for premises known as: 39 Annabelle Avenue, Block 71.03, Lot 33
be and the same is hereby: GRANTED bulk variances for rear yard, right side
yard, combined side yards, and lot coverage variances for a second floor add-a-level.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 3, 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 variance approval as aforesaid to construct a second floor add-a-level at premises located at 39 Annabelle Avenue, Block 71.03, Lot 33, which premises are located in an RA3 zone; and

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

- a. The applicant proposes to build a second floor addition off the existing first floor;
- b. Bulk variances are required for rear yard setback where 32.69 feet is proposed and 35 feet is required; right side yard setback where 5.8 feet is proposed and 6 feet is required; combined side yard setbacks where 11.8 feet is proposed and 16 feet is required; and lot coverage;
- c. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- d. 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 the second floor add-a-level will not be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to construct a second floor add-a-level at premises located at 39 Annabelle Avenue, Block 71.03, Lot 33, be and the same is hereby approved and the 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 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 OCTOBER 3, 2018.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that
the application of: POLISH DELICACY HOUSE, INC.
for premises known as: 9 & 10 Village Square East, Block 4.24, Lot 9 & 10
be and the same is hereby: GRANTED use variance to open a wall and expand the
existing deli into the adjacent vacant space.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 3, 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 as aforesaid at premises located at 9 & 10 Village Square East, Block 4.24, Lot 9 and 10, which premises are located in a PD1 zone; and

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

- a. The applicant has been operating a deli at the site since 1998 and seeks to expand by opening the wall and expanding into the vacant next door space;
- b. The applicant testified that the deli operations will remain the same, the kitchen is not being expanded and the adjoining room will provide more space for customers and displays;
- c. Due to the applicant's testimony as aforesaid, the use variance can be granted since there will be no negative impact on traffic, health, or safety;
- d. 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 use presently exists at the site and is being expanded into the next-door space; 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 open a wall and expand the existing deli into the adjacent vacant space at premises located at 9 & 10 Village Square East, Block 4.24, Lot 9 and 10, 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 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.