

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, December 19, 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, 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 Scott Sochon, the Minutes of the December 5, 2018, regular meeting was adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

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| 1.
Use
Variance;
Variances | <p>CLIFTON CHEDER, 1333 Broad Street, Block 76.01, Lot 5 – B-A – The Applicant seeks preliminary and final site plan 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:</p> <p>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.</p> <p>With respect to the maximum lot coverage, pursuant to Section 461-27, 20% is the maximum permitted and 24.74% existing and proposed.</p> <p>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.</p> <p>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).</p> |
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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 to the February 6, 2019, meeting of the Board.

2.
Use
Variance;
Variances

ALI EKINCI/SEMERKEND CULTURAL CENTER,
421 Clifton Avenue, Block 12.09, Lot 11 – BA1 –
Applicant proposes to use property as a Cultural Center and existing second floor apartment. First floor was previously approved as an apartment and a reading room. Existing garage will also be used as a meeting area and storage. Variances required:
1) D-1 use variance required for the mixed use, and for the Cultural Center.
2) Lot area is 5700 sq.ft. and 6000 sq.ft. required.
3) 25’ front yard setback required and 12.1’ provided.
4) 10’ (right) side yard required and 7.8’ provided.
5) 30% lot coverage permitted and 50% coverage existing.
6) 28 parking spaces required and 2 provided.

At the request of the attorney for the applicant, this matter was continued to the January 2, 2019, meeting of the Board.

NEW HEARINGS

1.
Variance

KORY M. MALONE, 45 Belgrade Avenue, Block 14.15, Lot 6 – RA3 – Applicant
proposes to install a 5’ solid fence on the right and left side of the house where a 4’ high, 50% open fence is permitted.

The applicant, residing at 45 Belgrade Avenue, Clifton, New Jersey, was present and sworn. There were two objectors who were present and sworn: Guy Fueshko and Carol Fueshko of 49 Belgrade Avenue, Clifton, New Jersey.

The applicant testified that he requests variance approval to install a 5-foot-high solid fence on the left and right side of the house where a 4-foot-highm 50% open fence is permitted; that the purpose of the fence is for safety of his vehicles on the premises; that the applicant has two dogs which will run on the premises and has concerns for the safety of third parties coming on the premises.

Guy Fueshko testified that he objects to the application since it will create a problem with his car doors opening and closing in the driveway which is adjacent to the proposed location of the 5-foot-high fence; that for safety purposes, he will have difficulty backing out of his driveway.

Offered into evidence as “O-1” is a photograph of the driveway and the aforesaid property.

Carol Fueshko described the photograph and the difficulty of accessing their vehicles in their driveway.

Chrmn Zecchino noted for the record that the applicant could erect a 4-foot-high 50% open fence without coming to the Board.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application for a 5-foot-high fence, 4 feet solid with a 1 foot lattice on the top, and further instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application as amended 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. **JAMES & ROBERT EVANS, 29 Emma**
Variance **Place, Block 43.11, Lot 6 – RB1 – The**
proposed second story addition over the
existing first floor requires the following
variances:
1) Left side yard proposed at 5.5’ where
12’ is required.
2) Combined side yards are 17.5’ where 24’
is required.

The applicants, residing at 29 Emma Place, Clifton, New Jersey, were present and sworn. There were no objectors.

James Evans testified that the applicants request approval for a second story addition over the existing first floor; that the left side yard is proposed at 5.5 feet where 12 feet is required; that the combined side yards are 17.5 feet where 24 feet is required; that the purpose of the addition is to upgrade the property; that there are other houses in the area which have improved second floors; that there is an existing non-conforming front yard setback.

After a review of the testimony, Comr Daniel Trenk moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

RESOLUTIONS

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

1. Upon motion made by Comr Louis DeStefano, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of FETTE REALTY, INC. to demolish existing dwelling and utilize the site for parking automobiles at 41 Conklin Drive/1137 Route 46, Block 45.06, Lot 8 and 1, was adopted. RA2/B-D

2. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of LANDSCAPE TECHNIQUES INC. for a D(3) conditional use variance and parking variance to construct a two-story office building with a 4-bay ground-level garage, associated surface asphalt, parking lot with 18 parking spaces and a two-way access road to Kingsland Avenue, including gravel driveway that connects the parking lot with eight landscape storage bins, perimeter fencing, a refuse enclosure, curbing, drainage, and landscaping, with unpaved areas for the storage of plants, trucks, and equipment at 33 Kingsland Avenue, Block 84.05, Lot 10, was adopted. M-2

3. Upon motion made by Comr Daniel Trenk, seconded by Comr Michael Molner, and affirmed by Comrs Scott Sochon, Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of DREW BENFANTE for rear yard setback variance to build a rear deck at 105 Pershing Road, Block 41.11, Lot 27, was adopted. RA2

4. Upon motion made by Comr Roy Noonburg, seconded by Comr George Foukas, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of RAFEL REYES for use variance to construct a second story rear deck at 805 Van Houten Avenue, Block 42.01, Lot 24, was adopted. B-C

5. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of BARBARA SALA for use variance and bulk and parking variances to convert a first floor office to residential, resulting in three residential units at 179 Randolph Avenue, Block 3.10, Lot 17, was adopted. RB2

6. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr George Foukas, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution APPOINTING JOHN D. POGORELEC as Counsel Secretary for the Zoning Board of Adjustment for the calendar year 2019, was adopted.

7. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution APPOINTING GREGORY ASSOCIATES, LLC, KATHRYN M. GREGORY, PP, AICP, as Principal Planner for the Zoning Board of Adjustment for the calendar year 2019, and prepare the Annual Report for 2018, was adopted.

8. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Roy Noonburg, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution APPOINTING NEGLIA ENGINEERING ASSOCIATES as

Engineer for the Zoning Board of Adjustment for the calendar year 2019, was adopted.

9. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution APPOINTING NEGLIA ENGINEERING ASSOCIATES as Landscape Architect for the Zoning Board of Adjustment for the calendar year 2019, was adopted.

10. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution APPOINTING NEGLIA ENGINEERING ASSOCIATES as Traffic Consultant for the Zoning Board of Adjustment for the calendar year 2019, was adopted.

11. Upon motion made by Comr George Foukas, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution APPOINTING DR. BRUCE C. EISENSTEIN as Cell Tower/Telecommunications Expert for the Zoning Board of Adjustment for the calendar year 2019, was adopted.

12. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution APPOINTING LAURA A. CARUCCI, C.S.R., R.P.R., LLC as its Certified Shorthand Reporter for the Zoning Board of Adjustment for the calendar year 2019, was adopted.

There being no further business before the Board, Comr George Foukas 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 DECEMBER 19, 2018.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,
that the application of: KORY M. MALONE
for premises known as: 45 Belgrade Avenue, Block 14.15, Lot 6
be and the same is hereby: GRANTED variance to install a 5-foot-high fence, 4 feet
solid with 1 foot lattice on top, on the right and left side of the house.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on December 19, 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 as aforesaid to erect a 5-foot-high solid fence at premises located at 45 Belgrade Avenue, Block 14.15, Lot 6, which premises are located in an RA3 zone; and

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

- a. The applicant requests variance approval to erect a 5-foot-high solid fence on the right and left side of the house for safety purposes;
- b. The applicant has agreed to erect a 4-foot-high solid fence with a 1-foot lattice on top, for a total of 5 feet high;
- c. The applicant can erect a 4-foot-high 50% open fence without a variance, and the objectors were objecting to the location of the fence since it interfered with their car doors and accessibility to their vehicles, which would be a problem whether the variance was granted or not;
- 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 proposed fence 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 proposed fence will not be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to erect a 5-foot-high fence, 4 feet solid with 1 foot lattice on top, on the right and left side of the house at premises located at 45 Belgrade Avenue, Block 14.15, Lot 6, 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 **subject to the fence being a 4-foot-high solid fence with a 1-foot lattice on top, for a total of 5 feet in height.**

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 LOUIS DE STEFANO.
Affirmed by: Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

MEETING OF DECEMBER 19, 2018.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,
that the application of: JAMES & ROBERT EVANS
for premises known as: 29 Emma Place, Block 43.11, Lot 6
be and the same is hereby: GRANTED left side yard and combined side yard
variances to erect a second story addition over the existing first floor.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on December 19, 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 Daniel Trenk moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid to erect a second story addition over the existing first floor at premises located at 29 Emma Place, Block 43.11, Lot 6, which premises are located in an RB1 zone; and

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

- a. The applicant proposes to erect a second story addition over the existing first floor;
- b. The left side yard is proposed at 5.5' where 12' is required; and the combined side yards are 17.5' where 24' is required; and there is an existing, non-conforming front yard setback;
- c. There are other similar-type additions in the neighborhood;
- d. The applicant has shown sufficient hardship to justify the grant of the variances 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 erect a second story addition over the existing first floor at premises located at 29 Emma Place, Block 43.11, Lot 6, be and the same is hereby approved and the left side yard, combined side yards, and existing, non-conforming front yard setback 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 DANIEL TRENK.
Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**