

MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF CLIFTON
April 17, 2024
7:00 P.M. REGULAR MEETING

COMMISSIONERS PRESENT:

AVRAHAM EISENMAN (2A)
DAVID BRAID (1A)
MAUREEN O'CONNOR
SCOTT SOCHON
MICHAEL MOLNER
GEORGE FOUKAS
VICE CHAIRMAN SCORZIELLO
CHAIRMAN ZECCHINO

ALSO PRESENT:

Nicholas Graviano, P.P., Board Planner
Anthony Kurus, P.E., Board Engineer
Liana Bolcato, Asst. Zoning Officer
Jessica Sweet, Esq., Counsel/Secretary

Chairman Zecchino called the Meeting to Order at 7:00 p.m.; he 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" public notice of the Board's 2024 regular meeting schedule was published in the Herald News on December 24, 2023. Special notice of the change in meeting time for tonight's meeting was published in the Bergen Record and the Herald News on March 3, 2024, 48 hours prior to the meeting as required by the Open Public Meetings Act. All notice requirements were satisfied. Chairman Zecchino announced the time, place, and form of notice as well as advising all applications 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.

CONTINUED HEARINGS

1. GEELAND, LLC 811-813 Rt 46, Block 34.03, Lots 75 and 77 – R-A2

The applicant is requesting preliminary and final site plan approval, with use and bulk variances to raze the existing commercial building and construct a 4-story 125,200 sq ft self storage facility, parking, lighting, landscaping, stormwater management, and related site improvements.

Attorney: Michael D. Sullivan, Esq.

Chairman Zecchino announced that this application has been continued to May 1, 2024.

2. **JOSH LOWY, 18 Conover Ct., Bl. 71.03, Lot 5, Zone: RA3**

The applicant is proposing an addition and alterations to the existing single-family home which requires the following bulk variances; rear yard setback proposed at 28.42' where 35' required, rear intersecting gable is creating a 3rd story where 2 stories are permitted, multiple rooms in basement proposed where one open reception room is permitted.

Chairman Zecchino announced that this application will be carried to May 15, 2024.

3. **TERESA VARGAS, 1084-1088 Main Ave., Bl. 8.01, Lot 29; Zone: BC**

The applicant is seeking a use variance, parking variance, and various bulk variances to replace an existing one-story commercial structure with a 2-story mixed commercial and residential use building.

Chairman Zecchino announced that this application will be carried to June 5, 2024.

4. **IVAN CABARCAS, 66 West 2nd Street Block: 9.07 Lot: 20- Zone: M2**

The applicant is requesting a use variance to replace an existing 2 story commercial property with a 3-family house which is an expansion of a nonconforming building/use in the M2 zone. Applicant also requesting bulk variance relief, a variance for a nonconforming driveway width, driveway buffer proposed at 0' where 5' required, and any other relief that may be required.

Attorney: Dominic Iannarella, Esq

Chairman Zecchino announced that the Applicant has requested a further adjournment of this application to the next available hearing date; it will be carried to May 1, 2024, with no further notice to be provided.

5. **JONATHAN & NAOMI LEB, 58 Parson Road, BLOCK: 57.01 LOT: 22 Zone: RB1**

Jonathan and Naomi Leb, 58 Parson Road, Clifton, NJ appeared *pro se*, and introduced witness William J. Martin, 25 Boulevard, Westwood, New Jersey, AIA, PP, whose qualifications were accepted by the Board in the fields of architecture and professional planning at the prior hearing on this application on March 20, 2024. Mr. Martin testified regarding the revised plans, dated April 3, 2024, which depict a lower roof height. Mr. Martin testified that the applicant is removing existing nonconformities; he previously provided testimony on the variance proofs. He described the revised plans, which depict a reduction in the roof height; the main ridge has been lowered 2 feet; the intersecting gable at the rear has been reduced by 4 feet. Mr. Martin passed out an exhibit marked as A-3, consisting of two renderings- sheet 1 shows the rendering of the prior plans; sheet 2 shows rendering of the revised plans. He stated that the two window dormers have been removed and now there's one lowered dormer in the center of the roof; the rear intersecting gable will contain AC equipment, accessed through a hatch.

Chair Zecchino asked what is the proposed story height now- is it 2.5 stories? Martin was unsure; he believes the zoning officer may define it as a 2-story. Ms. Bolcato advised that 2.5

stories are permitted in the zone for 2-family homes; this is a 2-family home existing being reduced to a 1-family home.

The Chair then opened the floor to interested parties.

Kazimierz Plichta, 72 Parson Road, previously sworn, asks about the interior height of the attic area. Ms. Bolcato states that this would not be considered a 3-story with the changes. Chairman explained that the height of the knee wall is what defines the story- if less than 5' it is not a story. Mr. Martin testified that the reduction in attic height to 7 feet and reduction of the attic area that has that full 7' height will trigger certain building code violations. Mr. Plichta states this is a three-story building, he says that when this was a 2-family there were fewer people living there, Chair stated that the Board cannot control how many people live there.

Diana Kalembe, 22 Emma Place, previously sworn, testifies that last hearing the Board made it clear that 3 stories were not appropriate for the area. She asks about the revised plans – how does that area of the attic where there's a 7' height not be a third story. Ms. Bolcato says that the revised plans depict a 2.5 story structure. They will still need a variance for the additional ½ story, which would be permitted for a 2-family house.

Mr. Martin concludes that he addressed the positive and negative criteria at the last meeting; the change from the 2-family to the 1-family eliminates some significant nonconformities, this will be a significant improvement over existing conditions.

At the conclusion of the testimony, Commissioner Molner made a motion to approve the application, stating that the applicant has made the changes requested; Commissioner Sochon seconds. Voting in favor are Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino..

NEW HEARINGS

1. HELMUT ANGEL, 14 Adams Terrace, Bl. 51.02, Lot 23, Zone: RA1

Helmut Angel, 14 Adams Terrace, appeared *pro se* and testified that he is seeking to construct a master bedroom over the garage; he is proposing a 2nd floor addition which requires the following bulk variance; combined side yard proposed at 14.6' where 24' required. The proposal is to add a second-floor addition to the east side of the house, a 14-foot setback to the eastern side yard is proposed. This conforms to the required minimum side setback for one yard of 10 feet, but due to the location of the house on the lot, the required minimum combined side yard setback of 24 feet cannot be met. Existing house situated 0.6' from the western side lot line, this is a pre-existing nonconforming condition that cannot be altered. The lot is undersized with regard to the minimum width requirement, where 75 feet is required and 69.82 feet is existing and proposed. The lot is oversized as to depth (195.44 existing/proposed, where 100 feet required) and lot area (13,402.22 SF existing/proposed, where 9375 SF required). Lot coverage is below the maximum required.

At the conclusion of the testimony, Commissioner Sochon makes a motion to approve the application. Commissioner Braid seconds the motion. Voting in favor are Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

2. GREGORY LEWIS, 5 Wester Place, Bl. 75.08, Lot 9, Zone: RA1

Applicant Gregory Lewis appeared *pro se*, and testified as follows: he is requesting approval to construct a 10' x 15.6' deck to the rear of his existing single-family house on the southeast corner along the Chittenden Road frontage, which functions as the house's side yard. The property is a corner lot, with frontage on Wester Place and Chittenden Road. It contains an existing one-story house, which has a pre-existing nonconforming front yard setback along the Chittenden Road frontage of 25 feet where 35 feet is the minimum required. The front yard setback to Wester Place is also a preexisting nonconforming condition, with 23 feet provided/existing and 35 feet required. The front façade of the house faces Wester Place. The lot is a uniquely shaped, forming an L-shaped configuration. It is deficient as to the minimum lot depth, where 75 feet is existing and 100 feet required. The deck will continue the existing building line of 25 feet along the Chittenden Road frontage; it will be open and will square off a 10 x 15.6' portion of the existing house.

At the conclusion of the testimony Commissioner Foukas makes a motion to approve the application. Commissioner Sochon seconds the motion. Voting in favor are Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

3. JOSE PINEDA & MONICA PYRYT, 45 Sargeant Ave., Bl. 36.12, Lot 6, Zone: RB1

Jose Pineda and Monica Pyryt appeared *pro se*. Mr. Pineda testified that they want to renovate the house and add an addition to the back. They are proposing a first and second floor addition and renovations to the single-family home which require the following bulk variances; rear yard setback proposed at 34.2' where 35' required, side yard setback proposed at 3.47' where 6' required, and front yard setback proposed at 20.9' where 25' required. There are several pre-existing nonconforming conditions affecting the property. The minimum front yard setback is presently 16.9' where 25' is required. Mr. Pineda confirmed that they are proposing to remove the existing front porch and construct a first and second floor addition, with a covered entranceway. This will result in an improvement over the existing nonconforming condition, increasing the setback to 20.9'. Mr. Pineda additionally confirmed that the minimum side yard setback (one) is presently 3.67' to the northern side yard, where 6 feet is the minimum required. The applicants are proposing to continue the existing building line along the northern side yard. The required minimum combined side yard setback of 16 feet will be met. A new variance is required from the minimum rear yard setback requirement of 35 feet, where the applicants are proposing 34.2 feet to the proposed covered rear entrance. The setback to the rear façade of the building will be 37' 9", meeting the ordinance requirement. Mr. Pineda further confirmed that the detached garage in the rear yard will be removed, reducing lot coverage from 25.8% existing to 23.27% proposed, meeting the ordinance requirement of 27%.

At the conclusion of the testimony, Commissioner Molner stated that he appreciated that the applicants are improving the existing nonconforming conditions, and made a motion to approve the application; Commissioner O'Connor seconds. Voting in favor are Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

4. ABED ABDELRAHMAN 269 Union Ave., Bl. 18.16, Lot 11, Zone: RA3

Dominic Iannarella, Esq. appeared on behalf of the applicant, Abed Abdelrahman, and presented the testimony of Mr. Abdelrahman. Mr. Abdelrahman testified that he seeks to construct a partial first floor addition to add a new bedroom to his existing single-family home to accommodate his expanding family. Mr. Abdelrahman is requesting the following bulk variances: side yard setback proposed at 1.98' where 6' required, combined side yard setback proposed at 13.7' where 16' required, and lot coverage proposed at 35% where 27% required. Mr. Iannarella advised the Board that the Property is an existing undersized lot in the R-3A zone; containing 4,110 SF where 5,000 SF is the minimum required, and lot width of 34.25 feet where 50 feet is the minimum required. The front yard setback is nonconforming at 12.58 feet where 25 feet is required. Side yard setbacks are nonconforming at 1.77 feet (one) and 10.99 feet (combined), where 6 feet/16 feet are the minimums required.

Mr. Abdelrahman described the proposal as a partial first floor addition to the rear of the existing dwelling, consisting of one room and a hallway. The existing covered patio and steps, as well as the basement access, will be removed. The rear yard setback is proposed to be 59.9 feet, which will exceed the 35-foot minimum required. The proposed side yard setbacks for the addition will be 1.98 feet (one)/13.7 feet (combined), which are slightly greater than the existing side yard setbacks. These variances are driven by the location of the existing house and the pre-existing nonconforming conditions. A variance from the maximum lot coverage requirement of 27% is requested, with the proposed lot coverage to be 35%. This is driven by the deficient lot area.

At the conclusion of the testimony, Commissioner Sochon made a motion to approve the application; Commissioner Foukas seconded the motion, and stated that he grew up in this neighborhood and is familiar with the need for additional living area in the area. Voting in favor are Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

5. PASSAIC CLIFTON COMMUNITY KOLLEL CONGREGATION, INC., 411- 415 Main Ave., Bl. 59.03, Lots 16 & 17, Zone: B-B

Christopher K. Costa, Esq., Stevens & Lee, appeared on behalf of the Applicant; he stated that he would be presenting the testimony of the following witnesses, all of whom were sworn in by Ms. Sweet:

- Rabbi Chaim Krauss
- Yosef Portnoy, PE, Forward Engineering
- Shimon Greenebaum, RA
- Joseph Fishinger, Jr., PE, PP, PTOE, Traffic Engineer
- Andrew Janiw, PP, Beacon Planning

Mr. Costa provided a summary of existing conditions, describing the existing layout and uses of the property. The applicant is seeking relief to construct a house of worship 84' x 69' to contain 2 floors and a basement. The property is located in the B-B zone; a house of worship is a

permitted conditional use in the zone. The applicant is requesting a D3 variance from the following conditions: minimum lot area; front yard setback (20' required; proposed- 10' one yard, 13.5' to the other front yard). C variances are requested from the 10' minimum parking setback to front and side yard, where 1' is proposed; from the minimum parking space dimensions of 9' x 19', where 9' x 18' is proposed; and to permit parking in the front yard. Mr. Costa stated that a D3 variance requires the applicant to demonstrate that the site can accommodate the problems associated with the proposed use despite the fact that all conditions are not complied with. Mr. Costa further stated that a house of worship is considered an inherently beneficial use by law.

Chairman Zecchino requested that Rabbi Krauss testify first. Mr. Costa then called Rabbi Krauss, who testified that he's been in the Clifton-Passaic community with the Kollel since 2005. In 2015 the Kollel moved to its current location at 415 Main Ave. They seek to provide a full house of worship, prayer three times daily, and a library for torah study. The Rabbi described a typical day as beginning with a 6 am prayer service, with midday services offered, and evening services are held between 8:30-10:00 pm. There will be no food preparation on site; a warming kitchen is proposed to allow food to be served on the Sabbath and for other gatherings/events. In response to questions from the Board as to how refuse collection will be handled, the Rabbi testified that the Kollel will continue to use the regular City trash collection. He stated that they place the containers at the curb on trash collection days; they do not expect any change in how trash collection is handled currently. The Board asked how deliveries will be handled; the Rabbi replied that they do not expect any deliveries other than FedEx/UPS and Amazon. The use does not require regular bulk deliveries of any kind. The Chair asks about the changes to the site, noting that it appears that it will be more intensive than the current rabbinical study use (13-14 people), as many more than 14 congregants will be utilizing the expanded synagogue. Rabbi Krauss responded that they don't expect any significant changes from the current use that will require current trash collection to be modified. Mr. Costa states that the Applicant will agree to modify the situation if the City requires; noting that there is an existing trash enclosure and Kollel does not anticipate any real changes. Board Planner Nicholas Graviano recommends that trash hauling/cans should be secured and brought to the curb for collection at a time so as not to disturb any residential neighbors. Rabbi Krauss testified that they do not intend to have events or celebrations during the weekdays, as prayer and study is the focus of their congregation, and they do not intend to detract from that. Commissioner Molner questioned the use of the City hauler for trash collection, noting that other schools in the City have been required to arrange for collection with a private hauler, and suggests that the Applicant be required to retain a private hauler. Mr. Costa stated that this is a house of worship, not a school, but again confirms that the Kollel would agree to look into a private hauler if trash collection becomes an issue.

At the conclusion of Rabbi Krauss's testimony, the Chair opened the floor to interested parties. George Putykenycz, South Parkway, is sworn, and testifies that he does not understand the expansion, he says the Kollel had a previous agreement that limited the hours of the school, now it will be open expanded hours. Chairman Zecchino replies that this is because this is a new application and the use is changing to a house of worship, on which there are no limitations on the hours that people can worship.

Mr. Costa then called his next witness, site engineer Yosef Portnoy, PE, who states that he is a licensed PE in the State of NJ, his license is active; he has a Bachelor of Engineering from NJIT, and has been working in land development for more than 11 years. Mr. Portnoy's qualifications were accepted by the Board as an expert in the field of Site Engineering. Mr. Portnoy then introduced an aerial photograph, which was marked as exhibit A-1. Mr. Portnoy described the existing property located at the intersection of Main Ave and South Parkway; located in a mixed area of residential and commercial uses. Mr. Portnoy then introduced exhibit A-2, an aerial overlay showing the proposed site conditions. Testifying in regard to Exhibit A-2, Mr. Portnoy stated that the Applicant is proposing to construct a new house of worship with a 24-space parking lot. All access to the site will be provided from Main Avenue, with one-way egress to South Parkway. Mr. Portnoy testified that the Applicant is seeking a conditional use variance from the minimum lot area of 20,000 SF required for a house of worship, as the site provides only 17,992. With regard to the conditional use variance from the minimum front yard setback requirement of 20 feet, Mr. Portnoy testified that a variance is requested due to the fact that this is a corner lot with 2 front yards, and they are proposing a front yard setback of 13.5' to Main Ave; and 10' to S. Parkway, which are both consistent with the character of the neighborhood and adjacent uses.

Addressing the parking requirement, Mr. Portnoy stated that 24 spaces are proposed, and 23 spaces are required after the EV credit adjustment is applied, with 100 seats proposed for the house of worship, the ordinance requires 25 spaces total before the EV credit adjustment. Mr. Portnoy testified regarding the variance requested for parking stall size, where 9' x 18' proposed and the ordinance requires 9' x 19'. Mr. Portnoy testified that 9' x 18' is an accepted industry standard, but for a site like this where there's low turnover and infrequent in- and-outs, the smaller stall size is appropriate. He stated further that the Applicant is proposing a drive aisle width of 24 feet, which will allow for sufficient maneuvering room. Mr. Portnoy further testified that the site circulation has been worked out with the Passaic County Planning Board, as Main Avenue is a County Road, and the applicant has revised the plans to provide for one-way site circulation, in from Main Ave, exit to South Parkway. Mr. Portnoy then testified regarding the comments received from the City Fire Department, which requested that Applicant model the fire truck turning radius. To meet this, they would have to lose one space, so they can reduce the number of spaces and still be conforming to the ordinance requirement after the EV credit is applied. Mr. Portnoy testified that 23 spaces would still be sufficient parking for the gathering area (100 seats) as provided by the City Ordinance. He stated that the last spot along the building would be the one eliminated to accommodate the fire truck turning radius. The landscaped island would be shifted to accommodate the turning radius. Portnoy states that the turning radius would work and this modification could be made to the plan to accommodate the concerns of the Fire Department.

Commissioner Foukas commented that typically the fire truck doesn't need to go on the property to fight the fire; Mr. Portnoy agrees and points out that this is a corner lot, access can easily be provided. Mr. Portnoy identifies the fire hydrant immediately outside the building on South Parkway, and noted that no parking allowed within 50 feet of the corner; the County requested that they put up a sign stating no parking in this area.

Addressing loading and deliveries, Mr. Portnoy testified that the house of worship use does not require any special deliveries. Mr. Portnoy further testified that the County has reviewed and approved the site circulation. He stated that the house of worship use will result in an am peak increase of 5 trips, and a pm peak increase of 7 trips, so there will not be any substantial increase in traffic. The signage will conform to ordinance requirements. The Applicant agrees to comply with the conditions of the professionals' reports. Mr. Portnoy testified generally regarding landscaping, street trees, and the vinyl fencing proposed to screen neighboring properties. All tree removal requirements will be complied with. The building will be sprinklered. Regarding site lighting, Mr. Portnoy testified that the applicant will install wall-mounted fixtures on timers, which will be on dawn to dusk. Parking lot lighting will be on timers, off at night. Addressing drainage, Mr. Portnoy stated that the site is relatively flat and drains to Main Ave. The applicant is proposing a subsurface infiltration basin to accommodate the new building. Stormwater was approved by the Passaic-Union Soil Conservation District and the Passaic County Planning Board in accordance with guidance from the County stormwater engineer.

Mr. Portnoy then summarized the variances requested: conditional use/D3 variances from the minimum lot area and front yard setbacks; and C variances for parking stall size, parking lot setback, parking location, which he described as existing conditions. In response to questions from the Board, Mr. Portnoy clarified that the fence would be a 6' vinyl fence, which will be an improvement over the existing chain link fence.

The Board then opened the hearing to interested parties. Mr. Putykenycz asked for clarification on the two front yards; Mr. Portnoy explains that this is because the site has two street frontages. Mr. Putykenycz testified that on South Parkway, there is already a sign on the stop sign that says no parking 50 feet from corner; but the City only marks it off to 25 feet, every day there's illegal parking on the street (not caused by the Kolllel) but if more people will be using this facility, they need to ensure that the 50' no parking zone is marked off. Ms. Bolcato says she can talk to the traffic department about this issue. Mr. Portnoy stated that the County wants the Kolllel to add a sign on Main Avenue stating that no parking is allowed within 50 feet of the intersection. Mr. Putykenycz then asks Mr. Portnoy to clarify the site circulation; Mr. Portnoy describes the circulation as a one-way in from Main Ave. and one-way out to South Parkway. Board Engineer Kurus comments that he needs the sewer flows calculated; Mr. Portnoy says he will agree with all comments in Neglia's report and will address them.

Mr. Costa then called his next witness, project architect Shimon Greenbaum, RA, Rise Architecture NJ, whose qualifications accepted by the Board as an expert in the field of architecture. Mr. Greenbaum described the proposed use as a synagogue, in which the primary activities are studying and praying. He described the building exterior as a modern design with a neutral stone color. They want to create a stately building, not overwhelming in terms of view or massing from the streetscape. The signage will be simple lettering on the building. Mr. Greenbaum then described the proposed floor plans. The first floor will contain the primary usage of building. The entrance is on Main Ave. There will be a small library in the back. The main prayer room occupies the largest portion of the building; it is a room designed for 100

people, and sized for study. People will sit there all day with a large pile of books, the space is sized for this usage. Mr. Greenbaum testified that the second floor will relatively simple, it will contain balcony space that will serve as a research library; overlooking the main sanctuary will be a women's gallery. The basement will hold social functions; it will contain a gathering room for short celebrations, with a warming kitchen, no food preparation onsite. It will additionally contain a Mikvah ritual bath, a dressing room, and showers.

The Board Chair asks for clarification about the use; in response, Mr. Greenbaum testified that study is an integral part of their worship process. He stated that synagogue in the orthodox community is largely about studying the Torah. The Board Chair asked about the difference between the existing use and the proposed use, as both seem to include Torah study. Mr. Greenbaum testifies that studying is how they worship. Vice Chair Scorziello asked if the new building will be constructed to accommodate what's already there. Mr. Greenbaum responded that the proposed building has been designed to accommodate an orthodox synagogue, and the building elements include what they would need on a day-to-day basis to practice their religion. Mr. Greenbaum described the Kollel as a bit more intense form of study than other synagogues, so it is open long hours to accommodate the diverse schedules of the members. What is there currently is a group of men studying; this use will be similar but allow for a place of worship. Board Planner Graviano commented that based on his experience with similar uses, this is a customary layout for an Orthodox Jewish house of worship; the library room is typical, the prayer/study room is typical.

Mr. Greenbaum then testified that the mechanical equipment will be housed in the building parapet; it will be quiet. Mr. Graviano asked that the Applicant confirm the site and building lighting plan. Mr. Pornoy responded that the parking lot lighting will be on timers; all lighting will be contained on the property. Board Engineer Kurus states that the lighting will be LED backlight controlled; will comply with the ordinance requirements. Interested party Mr. Putykenycz asked what times will the lighting timers turn on and off. Mr. Costa responded that the lighting timers are intended not to disturb the neighbors; the security lighting will be on all the time, but lights can be dimmed after the last service; the applicant is happy to comply with what the Board/police department wants. The lighting will be shielded and will not bleed off property lines.

Mr. Costa then called his next witness, Planner Andrew Janiw of Beacon Planning, whose qualifications were accepted by the Board as an expert in the field of professional planning. Mr. Janiw then introduced two exhibits, an aerial exhibit showing the site, marked as Exhibit A-3 in evidence, and several photographs of the site, marked as Exhibit A-4. Mr. Janiw testified that the property is outlined in yellow on A-3, located at the corner of S. Parkway and Main Ave. The surrounding neighborhood is comprised of mixed residential and commercial use. Mr. Janiw testified that the proposed use is keeping with the character of the community and surrounding uses. He described the D3 variance relief sought, noting that the conditional use variance from the required minimum lot area of 20,000 SF is a 10% deviation, where 17,992 SF is provided. The front yard setback variance is consistent with the character of the neighborhood. Mr. Janiw described the bulk variance from the required 10' parking setback to the rear and side

lot lines, where 1' and 2' are proposed, as an existing condition not to be changed; the parking footprint will be the same. Regarding the variance for parking space dimensions, where the proposed condition is 9' x 18', where 9' x 19' is required, Mr. Janiw testified that 9' x 18' is an accepted industry standard; the site circulation will work well; this is a low turnover use, and so the parking lot will function well as designed even under the variance conditions.

Addressing the positive criteria, Mr. Janiw noted that the City Master Plan and purposes of zoning enumerated by the Municipal Land Use Law both encourage appropriate development of lands and promotion of the public health, safety, and welfare, which are goals furthered by the construction of a new house of worship in the community. Mr. Janiw continued that the proposed use will promote the MLUL goal of providing sufficient space in a variety of locations for different uses, as this use is permitted in the district, and the conditional use variance for lot area involves only a 10% land shortfall. He concluded that the proposed deviations from the conditional use standards relating to minimum lot area and minimum front yard setbacks can be accommodated by the site as designed, as the required number of parking spaces will be provided; the site circulation will work as designed; and the drainage systems have been designed to handle all runoff without affecting neighboring properties. Mr. Janiw characterized the proposed site plan and lot layout as consistent with the development character of the property and the surrounding neighborhood. He stated that the site has been used in a manner similar to the proposed use, but now will consolidate the uses in one building. Mr. Janiw opined further that the site as designed furthers the MLUL goals relating to the efficient use of land, as this plan will organize the site and provide for a better/upgraded parking area. Addressing the standards for D3 variance relief, Mr. Janiw stated that the standards of the Coventry Square case govern. He noted that the Coventry Square case focuses on the whether the site as designed mitigates/accommodates the proposed deviations from the conditional use standards, in this application, the lot area and front setback, and concluded that the testimony supports a finding that it can so accommodate the requested deviations. Mr. Janiw testified further that the proposed house of worship is considered an inherently beneficial use under the law; the religious use enjoys a unique legal status and is protected by Federal Law pursuant to RLUIPA.

Addressing the negative criteria, Mr. Janiw testified that the focus is on how the applicant can mitigate the deviations from the conditional use standards. Citing the Sica v. Wall Twp. case, Mr. Janiw testified that a balancing test must be employed, and the question is can the D variance be granted without substantial detriment to the public good. Mr. Janiw testified that the elements of the Sica balancing test are met by this application. The deviations relate to lot size and the front yard setback; the front yard setbacks as proposed are consistent with the neighborhood character, and the site has been designed to offset the lot size deviation- parking requirements are met, the site circulation will function well, and the drainage improvements have been engineered to accommodate the proposed development. Thus, Mr. Janiw concluded that the variances can be granted without any substantial detriment to public good or zone plan.

Mr. Janiw then addressed the variances requested for the parking lot layout and design, stating that these can be granted pursuant to the C2 variance criteria: the variances are unique to this specific property; the purposes of MLUL are advanced by the deviations; and the benefits of

the proposed variance conditions will outweigh any detriments. The proposed parking stall size of 9' x 18' is widely accepted throughout NJ. The proposed parking lot setbacks of 1' and 2', as well as the location of the parking area in the front yard are preexisting nonconforming conditions that will remain as-is, and will be screened by landscaping from the surrounding properties. Mr. Janiw stated that the proposed variances will have no real negative impacts, as the deviations do not affect the provision of safety features, and the site design promotes the efficient use of land.

Board Planner Graviano then stated his agreement with Mr. Janiw's testimony, and noted that the crux of this application is that the applicant is providing the required off-street parking. Mr. Graviano suggested that any approval should be conditioned on the following:

- The house of worship will be limited to 100 seats for worshippers
- The applicant shall be responsible for any fees imposed by Ordinance
- The applicant will comply with the tree removal requirements of Ordinance Sec. 433
- Resolution compliance plans will be submitted for further review by the Board's professionals
- The parking lot layout will be revised to remove one space and the landscaped aisle will be modified to meet the fire truck turning radius requirements. This will allow for rare access to all four sides of the building.

Mr. Costa states that they agree with the Planner's comments. The Board Chair then opened the floor to interested parties to question Mr. Janiw; seeing none, the Chair then closed the floor.

Interested party Mr. Putykenycz then provided a closing statement, raising the question that if there are 100 people attending worship services, where are they going to park? Chair Zecchino noted that the minimum parking space requirement of the ordinance is met, so the applicant is deemed to be providing sufficient parking for the use.

Mr. Costa made a closing statement in which he summarized the relief requested and asked that the Board approve the application. Chair Zecchino then complimented the applicant for the well-designed plan and presentation.

At the conclusion of the testimony, Vice Chair Scorziello made a motion to approve the application, subject to the following stipulations: (1) the synagogue will provide a maximum of 100 seats; (2) compliance with all comments of the Board Planner's and Board Engineer's reports; (3) the site plan will be modified to accommodate the fire truck turning radius by eliminating one parking space and modifying the landscaped island as Mr. Portnoy testified; (4) uplit lighting will be provided for all façade signage; (5) if Code Enforcement later determines that the refuse generated by the synagogue use exceeds what can be managed by the City's public trash collection, the applicant will arrange for more frequent collection by a private hauler; and (6) the lots will be consolidated by deed. Commissioner O'Connor seconds. Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

ADOPTION OF MEMORIALIZING RESOLUTIONS/MINUTES

1. RICHARD LUO, 190 Beverly Hill Rd, Bl. 55.07, Lot 50, Zone: RA3
Approval of application for bulk variance relief from the minimum front and side yard setback requirements to construct a second-floor dormer addition.

Offered by Commissioner Molner and seconded by Commissioner Braid. Voting in favor: Comrs. Braid, Sochon, Molner, Vice Chair Scorziello and Chairman Zecchino.
2. DAN WISOTSKY, 399 South Parkway BLOCK: 58.06 LOT: 13 Zone: RA3
Approval of application for bulk variance relief from the minimum rear yard setback and maximum lot coverage requirements to construct an addition to a single-family home.

Offered by Vice Chair Scorziello and seconded by Commissioner Sochon. Voting in favor: Comrs. Braid, Sochon, Molner, Vice Chair Scorziello and Chairman Zecchino.
3. LILIANA OTALVARO, 610 Gregory Ave. BLOCK: 13.13 LOT: 47 Zone: RB2
Re-approval of application for bulk variance relief from the minimum lot width, minimum lot area, minimum driveway setback, and maximum height (stories) requirements to demolish an existing single-family home and build a new two-family home, previously approved on January 5, 2022 but expired due to failure to obtain permits within one year.

Offered by Commissioner Molner and seconded by Vice Chair Scorziello. Voting in favor: Comrs. Eisenman, Braid, Sochon, Molner, Vice Chair Scorziello and Chairman Zecchino.
4. Minutes of the April 3, 2024 Regular Meeting

Offered by Commissioner Sochon and seconded by Commissioner Eisenman. Voting in favor: Comrs. Eisenman, Braid, Sochon, Molner, Vice Chair Scorziello and Chairman Zecchino.

There being no further business before the Board, Commissioner Foukas moved to adjourn. The motion was seconded by Commissioner Sochon, with the unanimous approval of all Board members present, the meeting was adjourned at 8:57 p.m.

Respectfully submitted,
JESSICA L. SWEET, ESQ.,
COUNSEL SECRETARY