

Minutes of a special meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, January 26, 2022. 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 GEORGE SILVA, SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMRS URI JASKIEL AND ZALMAN GURKOV.

EXCUSED: COMR GEORGE FOUKAS.

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.

NEW HEARING

1. Sub-division; Use **CLIFTON IL, LLC, 782, 784, 810 & 818 Valley Road, Block 24.01, Lots 11, 14, 15, and 18**
-- RA1 – This is an application for a subdivision to divide parts of Lots 15 and 18 from the existing lots and make those two sections part of existing Lot 14;
For use variances as follows:
 1. A D1 Use Variance use not permitted in the zone;
 2. A D5 Density Use Variance (7 dwelling units permitted, 13.25 dwelling units proposed);
 3. A D6 Height Variance for a height higher than 10% of the permitted height in the zone (41'5" proposed, 30' permitted);For bulk variances as follows:
 1. Maximum impervious lot coverage as follows:
 - a. In the 15% slope area, 30% permitted, 47.2% proposed;
 - b. In the 15.1% to 25% slope area, 25% permitted, 48.8% proposed;
 - c. In the 25.1% to 30% slope area, 25% permitted, 25.3% proposed;
 - d. In the over 30% slope area 0% permitted, 2.4% proposed.
 2. Maximum impervious coverage, 0% permitted, 12.6% proposed.
 3. Excavation in slopes in excess of 30%;
 4. Uppermost point of a cut slope higher than the top of the nearest downhill structure or building; andA waiver is required for the number of parking spaces as provided per RSIS (68 spaces proposed,

79 spaces required, but the applicant far exceeds the number of spaces required by the Zoning Ordinance (17 spaces required, 68 spaces provided).

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was one objector, Alessia Eramo, of 35 Merrill Road, Clifton, New Jersey.

The objector testified that the notice is defective; that it does not state what is proposed to be built on the property and the reason why the subdivision is being requested.

Mr. Carlet stated that the notice does provide that 7 dwelling units were permitted on the property and 13.25 dwelling units were proposed; that this required both a use variance for a use not permitted in the zone and a D5 Density Use Variance because dwelling units per acre were permitted and 13.25 dwelling units were proposed.

Chrmn Zecchino requested the opinion of Counsel Pogorelec. Counsel Pogorelec stated that the applicant did appear before the Board on October 20, 2021, and at that time, the issue of whether the notice served upon the interested parties was valid was addressed; that at that time, the notice was ruled defective, and the matter was dismissed without prejudice; that in the present matter, the same notice was served by the applicant; that the notice is defective because it does not inform the public of the proposed nature of the use, i.e. a 50-unit senior citizen independent living facility connected to the new assisted living facility opened on Lot 11. Counsel Pogorelec cited the opinions of the Appellate Division of the Superior Court of the State of New Jersey in Perlmart v. Lacey Tp. and Pond Run Watershed v. Hamilton Twp. Zoning Bd. of Adj. in support of his opinion that the notice is defective.

There was discussion by the Board, and Chrmn Zecchino requested that the Board be polled to consider whether the notice was valid or defective. Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino all indicated that the notice was defective.

Thereupon, Comr Louis DeStefano moved to dismiss the matter without prejudice. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a six to zero vote, the motion carried, and the application was dismissed without prejudice 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.

There being no further business before the Board, Comr Scott Sochon moved to adjourn. The motion was seconded by Comr George Silva with the unanimous approval of the entire Board.

Respectfully submitted,



JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF JANUARY 26, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **CLIFTON IL, LLC**
for premises known as: **782, 784, 810 & 818 Valley Road, Block 24.01,**
Lots 11, 14, 15, and 18
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE.**

This matter, coming on for hearing before the Board at a special meeting; and it appearing that the notice requirements pursuant to the statute are not satisfied by the applicant; and the defective notice affects the jurisdiction of the Board to hear the matter; thereupon this matter

BE AND THE SAME is hereby dismissed without prejudice.

Resolution moved by: Comr LOUIS DE STEFANO.
Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.