

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, March 6, 2019. 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 ZALMAN GURKOV, 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 Daniel Trenk, seconded by Comr George Foukas, the Minutes of the February 20, 2019, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

1. **CLIFTON CHEDER**, 1333 Broad Street, Block 76.01, Lot 5 – B-A – The Applicant
Use seeks preliminary and final site plan
Variance; approval and a (D)(3) conditional use
Variances 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.

Stephen A. Geffner, Esq., of Schenck Price Smith & King, LLP, with offices at 220 Park Avenue, Florham Park, New Jersey, appeared on behalf of the applicant. Mitchell W. Abrahams, Esq., of Cole Schotz, PC, with offices at 25 Main Street, Hackensack, New Jersey, appeared on behalf of objector Banker's Financial Corp.

The following individuals appeared in favor of the application: Bina Zarkhin, 61 The Circle, Passaic; Enile Wiesenfeld, 19 Bull Ave., Passaic; Carolyn Silver, 103 Virginia, Clifton; Carl Silver, 103 Virginia Ave., Clifton; Carol Gousher, 150 Elmwood Ave., Passaic; Yakov Okshtein, 428 Brook Ave., Passaic; Ruth Weiss, 97 Westervelt, Passaic; Leah Zimmerman, 101 Westervelt Place, Passaic; Alla Rodionov, 55 Belmont Ave., Clifton; Chana Okshtein, 428 Brook Ave.; Steven Grossman, 482 Passaic Ave.; Elchanan Erlanger, 357 Brook Ave.; Dassi Erlanger, 357 Brook Ave.; Moshe Wiedermann, 195 Elmwood Ave., Passaic; Alex Wiedermann, 195 Elmwood Ave.; Menachern Wiedermann, 195 Elmwood Ave.; Yitz Zanziper, 10 Lehigh Ave.; David Over, 107 Edgewood Ave.; Ricky Over, 107 Edgewood, Clifton; Avrohom Klein, 314 Terhune Ave., Passaic; Mendy Schechter, 12 Miller Court, Clifton; Isaac Kagan, 557 Passaic Ave., Clifton, NJ; Debra Goldberg, 18 Edgemart Rd., WO, NJ; Chagit Lasowsky, 1 Idaho St., Passaic, NJ; Sofiya Spivak, 85 Ascention Street, Passaic; Gary Klotzkin, 43 Hampton Rd., Clifton, NJ; Joseph Klotzkin, 43 Hampton Rd., Clifton, NJ; Jonathan Brend, 76 Elliot St., Passaic, NJ; Chaya Lotz, 228 Beck Ave., Passaic, NJ; Oran Levin, 475 Passaic Ave., Passaic, NJ 07055; Yosef Seldowicz, 115 Lafayette Ave., Passaic, NJ; Fagy Seldowicz, 115 Lafayette Ave., Passaic, NJ; Chana Wilhelm, 14 Temple Pl., Passaic, NJ; Dassie Guttman, 41 Woodward Ave., Clifton; Aaron Shapiro, 7 Forest Court, Passaic; Menachem Mittel, 76 Mineral Spring Ave., Passaic; Aryeh Shapiro, 7 Forest Court, Passaic; Lisa Compart, 111 Palmer St., Passaic, NJ; Alan Buckslon, 56 Amsway Ave., Passaic; Yadlov Plihman, 374 Brook Ave.; Brian Brager, 11 Bradford Ave., Passaic; Yeshaya Orent, 176 Patricia Pl., Clifton, NJ 07012; Chanania Orent, 176 Patricia Place, Clifton, NJ 07012; Miriam Orent, 176 Patricia Place, Clifton, NJ; Joe Baruch, 25 Amsterdam Ave., Passaic, NJ; Penina Baruch, 25 Amsterdam Ave., Passaic, NJ; Aliza Zidell, 1380 North Ave. #422, Elizabeth; Elchanon Gelb, 126 Van Houten Ave., Passaic; Yosef Zidell, 1380 North Ave. #422; Elchanan Cohn, 30 Annabelle Ave., Clifton; Elizabeth; Joshua Elsenberg, 36 Pleasant Ave., Passaic; Alza Friedman, 4 Ravona St., Clifton, NJ 07012; Nechama Gelb, 126 Van Houten Ave., Passaic, NJ 07055; Abruham Burucher, 30 Allwood Pl., Clifton, NJ 07012; Baruch Chei Burucher, 30 Allwood Pl., Clifton, NJ 07012; Chava Kagan, 557 Passaic Ave., Clifton, 07014; Yitzy Mittel, 76 Mineral Spring Ave. 07055; Tania Wolf, 9 Garfield Avenue, Clifton, NJ 07012; Chani Markowitz, 285 Pennington Avenue, Passaic, NJ 07055; Richard Cohen, 57 Howard Ave., Passaic; Aliza Bloom, 6 Conover Ct., Clifton; Moshe Bloom, 6 Conover Ct., Clifton; Chavi Baruch, 25 Amsterdam Ave., Passaic; Alissa Paige Joseph, 61 Virginia Ave., Clifton, NJ 07012; Gersham Tave, 38 Amsterdam Avenue, Passaic, NJ 07055; Walfish Naftoli, 65 Wessington Ave., Passaic, NJ; Amy Klein; Rvchoma Klein; Bayla Klein; Akiva Klein; Mark Shepio, 7 Forest, Passaic, NJ 07055; R.N. Silbermintz; M. Zarklein, 61 The Circle; R. Rudolph, 60 Annabelle Ave., Clifton, NJ 07012; Y. Rudolph, 60 Annabelle Ave., Clifton, NJ 07012; Liz Lowy, 62 Lorrie Lane, Clifton, NJ 07012; Karen Goldman,

185 High Street, Passaic, NJ; Sara Meira Henyson; and Yaacov Stellis, 35 Green Ct. (Names appear as handwritten on sign-in sheet).

The following individuals appeared in opposition to the application: Emilia Soltis, 226 Haddenfield Rd.; Carol Pruzansky, 47 Vincent Drive; Maria Rodriguez, 27 Concord St.; Ray Robertello, 66 Woodlawn Ave.; Jeff Labriola, 200 Chittenden Rd.; Arlene Bayeux, 69 Marlboro Road; John Labriola, 200 Chittenden Rd.; Jean Labriola, 200 Chittenden Rd.; Jeannie Labriola, 200 Chittenden Rd.; Mike Pasino, 20 Bogert Pl.; Karen Aceto, 14 Peterson Ct.; Lisa Duffy, 25 Janice Terrace; Vivian Sussrman, 6 Walsh Ct.; Jennifer Algien, 116 Woodlawn Ave.; Aaron Liechenstein, 14 Bogert Pl.; Caitlin White, Vincent Dr.; George Hariton, 32 Rolling Hills Rd.; Debbie D'Anthony, 27 Wester Pl.; Steve D'Anthony, 27 Wester Pl.; Joseph Sardina, 1368 Broad St.; Denise Regalado, 40 Linwood Ter.; Pat Zalesny, 40 Notch Rd.; Joe Zalesny, 40 Notch Rd.; Catherine Murtha, 32 Bogert Pl.; Beth Garrigan, 63 Carline; Joanne McGowan, 64 Carline; Aliyas Aboughanam, 83 Haddenfield Rd.; Halil Kaya, 6 Rabkin Drive; Yasemin Kaya, 6 Rabkin Drive; Mille McCarthy, 172 Chittenden Road; Gail Smith-McCarthy, 172 Chittenden Road; Joanne/George Scordilis, 33 Robinson Terr.; Michael Komarczyk 34 Haussler Terrace; Thomas Davey, 5 Janice Terrace; Rita Trauk, 21 Fair Hill Rd.; Jim Murtha, 32 Bogert Pl.; Emily Diamond, 14 Walsh Ct.; Fran & Don Warren, 15 Walsh Ct.; Michael Leach, 185 Chittenden; Harold Abarca, 19 Rabkin Drive; Susan Rudbart, 21 Walsh Ct.; Ann Wry, 16 Earnshaw Pl.; Gerard Santucci, 16 Earnshaw Pl.; Jaydeep Naik, 21 Wester Pl.; Kamil Goybulak, 7 Anderson Dr.; Sevgi Goybulak, 7 Anderson Dr.; Rashmi Thareja, 1308 Broad St.; Krismam Thareja, 1308 Broad St.; Faruk Apaydin, 1302 Broad St.; Chetna Naik, 21 Wester Pl.; Devrey Sonemi, 16 Anderson Dr.; Bina Shukla, 11 Ehreal Pl.; Jessica Mo, 163 Haddenfield Rd.; Kathy Sauerborn & Gary Sauerborn, 263 Chittenden Rd. (Names appear as handwritten on sign-in sheet).

This is a continued hearing from the meetings of May 9, 2018, July 25, 2018, September 5, 2018, September 26, 2018, November 7, 2018, and February 6, 2019.

Chrmn Zecchino stated that the Board would hear testimony from the objectors and any interested parties and hear the summation of Mr. Abrahams and Mr. Geffner on behalf of their respective clients.

The following objectors were sworn and gave testimony in opposition to the application as set forth below: Beverly Carey, Jean Labriola, Raymond Robertello, Jeff Labriola, Vivian Seminario, Frank Capola, Aaron Liechenstein, James Murtha, Joseph Sardinia, George Harita, Carol Pruzansky, Emilia Soltis, Caitlin White, Jaydep Naik, and Mike Passino. The objections to the application included, but not limited to, increase in traffic; intensive traffic impact at peak hours in the AM and PM; inadequate drop-off area; inadequate play area; limited stacking room for pick-up and drop-off of students; intensification of the use of property; concern for the safety of students at the site; concern for pedestrians in the neighborhood due to the high traffic; the unsuitability of the site for a school; concern for the increase of student enrollment in the future; concern for high rates of speed on Broad Street, Chittenden Road, Anderson Drive, and Haddenfield Road; insufficient parking spaces; concern for students in the school when an emergency exists; inadequate ingress and egress to the site; impairment of the quality of life of the residents in the adjacent neighborhood due to increase in traffic and concern for traffic congestion during the morning and evening hours when students come to the school and exit from the school.

There were a number of interested parties in favor of the application who were affirmed to give testimony that the present facility is too small, and the proposed facility will provide a better education for the students; that there is sufficient parking at the site, and there is sufficient recreational area for the children; and that the school will be a great addition to the City.

In summation, Mr. Abrahams testified that the Ordinances of the City of Clifton

indicate that this is a D1 use variance instead of a D3 conditional use variance; that the site in question has unsafe internal traffic circulation as well as ingress and egress issues; that the applicant has failed to sustain the burden of proof required for the grant of a conditional use variance; that the drop-off plan is unsafe and that there are legitimate on- and off-site traffic and safety concerns which justify a denial of the application.

Mr. Geffner, on behalf of the applicant, stated that the applicant has sustained the burden of proof by supplying testimony from an engineer, a planner, a traffic consultant, and an architect; that the use is approved under the Conditional Use Ordinance of the City of Clifton; that the use is an inherently beneficial use; that the gap studies provided by the traffic consultant show that the concerns of traffic congestion caused by the school are without merit; that the applicant would be willing to accept as a condition of approval that there would be more than 305 students at the maximum and that Police Officers from the City or the County will be at the site at peak hours to control traffic entering and exiting from the site onto Broad Street.

After a review of the testimony and hearing the arguments of counsel for and against the application as well as the objectors and interested parties in favor of the application, Comr Louis DeStefano moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution, citing the fact that the school is a permitted conditional use; that the conditions of the use variance which are not met by the applicant which include the lot width, maximum lot coverage, and side yard setback requirements are minimal deviations; that the Passaic County Planning Board has indicated approval of the application. Comr DeStefano conditioned said approval on the following:

1. That there be no more than 305 students at the maximum at the school;
2. That the school will provide five days before the next two school years to the Zoning Officer the names of students in attendance.
3. There will be no garbage pick-up before 7 A.M.
4. The applicant will be required to comply with all recommendations set forth in the report of Neglia Engineering Associates dated December 7, 2016, and revised March 21, 2018.
5. That the applicant make arrangements with the Clifton Police Department or the Passaic County Sheriff's Office to have an officer on site to direct and control traffic at the AM hour from 7:40 to 8:40 and in the PM hour from 3 to 5. After two years, this arrangement may be reviewed for future implementation.

The motion was seconded by Vice-Chrmn Gerard Scorziello who stated that the school is a permitted use at the site; that it is an inherently beneficial use; that the deviations from the conditional use variance are minimal; that the stipulations set forth provide for the safety of the school; that the Passaic County Planning Board which has jurisdiction of Broad Street has approved the application.

Voting in the affirmative and stating similar reasons for approving of the application were Comrs Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting in the negative was Comr Roy Noonburg who cited the fact that there is inadequate traffic safety at the site; that there is inadequate ingress and egress; that queuing of vehicles will create a potential problem. Also voting in the negative was Comr George Foukas who stated that his concern is for the safety of children, and due to the traffic considerations, the site will be unsafe for students; that the site in question, because of the heavy traffic on Broad Street, is not suitable for a school. By a five to two vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete
testimony presented to the Board and

upon which this decision is based.

NEW HEARINGS

1. **MARIA RODRIGUEZ**, 27 Concord Street, Block 23.02, Lot 10 – RA3 – Applicant proposes to build a 10' x 16' rear yard deck. The following variance is requested:
1) Rear yard proposed at 28' where 35' is required.

The applicant, residing at 27 Concord Street, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that she requests variance approval for a 10- by 16-foot deck in the rear yard; that the rear yard setback requirement is 35 feet, and she is proposing 28 feet; that there have been no objectors to the application; that she has lived at the premises for two years.

After a review of the testimony, Comr Daniel Trenk moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variance. The motion was seconded by Comr George Foukas. 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.

2. **ERIC PHILIP**, 95 Ridgewood Road, Block 55.07, Lot 5 – RA3 – Applicant proposes to extend the driveway to the left side lot line. The following variances are requested:
1) Driveway proposed 0' from the left side lot line where 5' is required.
2) Curb cut proposed 16' wide where 12' is permitted.

The applicant residing at 95 Ridgewood Road, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests variance approval to extend the driveway to the left side lot line; that he is seeking a variance where the driveway proposed is 0 feet from the left side lot line and 5 feet is required; that he is also seeking to expand the curb cut to 16 feet wide where 12 feet wide is permitted.

There was discussion by members concerning the left side yard setback, and the applicant agreed to reduce the left side yard setback to 2 ½ feet and to increase 2 ½ feet on the right side; that the curb cut would remain at 12 feet instead of the 16 feet requested by the applicant.

After a review of the testimony, Comr Louis DeStefano moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution for a 2 1/2 foot setback to the left and to increase the driveway 2 ½ feet to the right with a 12 foot curb cut. 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 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 Louis DeStefano, 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 a rear yard setback variance for a rear yard deck at 24 Janice Terrace, Block 75.02, Lot 30, was adopted. RA1

2. Upon motion made by Comr George Foukas, seconded by Comr Roy Noonburg, and affirmed by Comrs Scott Sochon, Michael Molner, Daniel Trenk, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ZEV & SHELLY LOB for variances for right side yard, left side yard, combined side yard and lot coverage for a second floor addition and a rear addition and deck at 145 Patricia Place, Block 71.04, Lot 15, was adopted. RA3

3. 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 GRANTING the application of MARIA BONIFACIO for street side yard setback and lot coverage variances for an open pergola at 459 Highland Avenue, Block 21.05, Lot 1, was adopted. RB2

4. 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 LIDIE MERCADO for conditional use variance to operate a café at 616 Van Houten Avenue, Block 37.02, Lot 34, was adopted. B-C

5. 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 RAHMOUN BADEREDIN A/K/A BADER RAHMOUN for approval for a driveway expansion 4 ½ feet even with the garage and extending towards the steps in front of the house with no curb cut and removal of a 4 ½ feet away from the left side yard at 16 Lindale Court, Block 41.01, Lot 53, was adopted. RA3

6. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DENYING the application of NATHAN & EMILY KAMELHAR for variances for combined side yards, lot coverage, height of structure, and two kitchens in the unit for a one-family dwelling at 57 Allwood Place, Block 57.05, Lot 2, was adopted. RA3

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF MARCH 6, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFTON CHEDER for premises known as: 1333 Broad Street, Block 76.01, Lot 5 be and the same is hereby: GRANTED preliminary and final site plan approval and a D3 conditional use variance and bulk variances for a private elementary school in the B-A zone.

Testimony concerning the aforesaid application was taken by the Board at its meetings on May 9, 2018; July 25, 2018; September 5, 2018; September 26, 2018; November 7, 2018, February 6, 2019, and March 6, 2019. 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 Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests preliminary and final site plan approval and a D-3 conditional use variance and bulk variances for a private elementary school at premises located at 1333 Broad Street, Block 76.01, Lot 5, which premises are located in a B-A zone; and

WHEREAS, the following conditions of the conditional use variance are not satisfied:

- a) lot width of 150 feet is required, and 133 feet is existing and proposed;
- b) maximum lot coverage permitted is 20 percent, and 24.74 percent is existing and proposed;
- c) minimum side yard for one side is 20 feet and for both sides 40 feet is required, and 18.87 feet for one side yard and 42.74 feet for both side yards is existing and proposed; and

WHEREAS, the Board heard testimony from applicant's Professional Engineer Joseph R. Golden who gave an overview of the project and site operations, including general engineering comments, grading, drainage, utilities, landscaping, lighting, sewer discharge, and traffic; and

WHEREAS, the Board heard testimony from applicant's Traffic Expert Joseph Staiger of Dynamic Traffic who prepared traffic reports dated April 27, 2017, and October 30, 2017, which included traffic counts, traffic analysis, impact of the site to Broad Street and Allwood Road, conduct of traffic on Sunday, queuing of the vehicles onto Broad Street, gap study, access to and egress from the site, the number of vehicles entering and exiting the site, and number of parking spaces; and

WHEREAS, the Board heard testimony from applicant's Planning Consultant Donna Holmqvist of Preferred Planning Group LLC who prepared a report dated September 13, 2018, which included an overview of the area, a property description, use, area, and bulk standards of the zone ordinance, the criteria developed by the Courts when dealing with conditional use applications, the applicability of the Clifton Master Plan, the inherently beneficial status of the applicant, the application of the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the benefits of the location of the school satisfying a need for families valuing Jewish religious priorities combined with a high-quality educational environment; and

WHEREAS, the Board heard testimony from the applicant's Architect, Louis Brandt, AIA, who prepared the plan and described the interior of the premises set forth on the plans and the addition of an elevator lift located off the drop-off point to take a

student down or up to the next level; and

WHEREAS, the Board viewed a visual presentation and heard testimony from Rabbi Isaac Kagan, the Administrator of the school, indicating the hours of operations, days of the week, number of teachers, number of students, number of employees, schedule of arrivals and pick-up times, playground area, library, and the other school facilities; and

WHEREAS, the Board heard testimony from Hal Simoff of Simoff Engineering Associates, Inc. who prepared a traffic report on behalf of the objector located next door to the premises proposed for the school, in which he testified as to existing conditions, conducted traffic counts, reviewed drop-off areas, route of children to play area and the queuing area; and

WHEREAS, the Board did receive a report from its Planning Consultant Gregory Associates LLC dated March 27, 2018, setting forth the existing zoning and surrounding areas, proposed development, zoning requirements for a conditional use variance set forth in Coventry v. Westwood, 138 N.J. 285 (1999); and

WHEREAS, the Board did receive a report from its Engineering and Traffic Consultant, Neglia Engineering Associates, dated December 7, 2016, revised March 21, 2018, which discussed general engineering comments, grading, drainage and utilities comments, lighting and landscaping comments, and traffic comments; and

WHEREAS, the Board did hear testimony from residents in the surrounding neighborhood; other interested parties who objected to the application based upon increased traffic, unsafe vehicular and pedestrian circulation, unsafe access and egress to the site, creation of traffic congestion on abutting streets, inadequate queuing of vehicles entering and exiting the premises, lack of safety for students, impairment of the quality of life for residents in the neighborhood, lack of parking, and unsuitability of site for a school; and

WHEREAS, the Board is in receipt of communication dated September 14, 2018, from the Passaic County Planning Board granting conditional approval of the application; and

WHEREAS, the Board did receive into evidence the following exhibits:

- “A-1” Visual aid presentation.
- “A-2” Proposed lower level plan.
- “A-3” Upper first floor plan of existing building.
- “A-4” Site plan of the premises;
- “A-5” Gap study for morning peak hours arriving;
- “A-6” Gap study for afternoon peak hours dismissal;
- “A-7” Letter of Passaic County Planning Board;
- “A-8” Location of Schools in the City of Clifton;

“O-1” Compilation of various provisions from the City of Clifton Zoning Ordinance.

“O-2A” Photo of vehicles backed up on Chittenden Road entering Broad Street at 8:30 A.M.;

“O-2B” Photo of vehicles backed up on Haddenfield Road entering Broad Street at 9 A.M. and

WHEREAS, the Board, after a review of the testimony, the plans, reports, and exhibits on file, has made the following factual findings:

- a. The site in question is an existing office building in the Professional (BA) district which permits schools as a conditional use. The proposed school is a permitted conditional use.
- b. The area and bulk dimensions of the existing site and building layout do not conform with the conditional use standards for schools, however the non-conformities are existing, and there will be no enlargement or addition to the existing building.
- c. N.J.S.A. 40:55D-4 identifies schools as an inherently beneficial use.
- d. The proposal is located on a County road which has given approval of the application;
- e. Section 461-27 of the Ordinances of the City of Clifton requires a school use to occupy a lot with a minimum lot width of 150 feet. The existing lot width is 133 feet. The lot width may not be expanded due to developed properties to the north and south.
- f. The use of the premises for a school requires one side yard of 20 feet and combined side yard of 40 feet. The applicant proposes one side of 18.87 feet and combined side yard of 42.74 feet which is existing. There is no way to comply with this requirement without removal of a portion of the building.
- g. The maximum lot coverage permitted is 20 percent and the existing building has a lot coverage of 24.74 percent. The proposal does not increase the non-conformity. The only way to conform to lot coverage is to remove a portion of the building.
- h. The zoning deviations relating to conditional use standards are applicable to existing lot and building. The proposal does not exacerbate the non-conformities.
- i. The applicant proposes no changes to the lot width, side yard, or lot coverage.
- j. Based upon testimony of applicant's planner, the reuse of the vacant office building for a religious school is consistent with Goal 6 of the Master Plan Reexamination Report for reuse of vacant facilities; and Goal 9 to provide adequate facilities to serve Clifton's residents in terms of schools.
- k. Based upon the testimony of the applicant's planner, the applicant's proposal furthers the purposes of the Municipal Land Use Law N.J.S.A. 40:55-2
 - (a) To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare; and
 - (g) To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.
- l. The Board heard testimony from two traffic experts, Joseph Staiger for applicant and Hal Simoff for the objectors. The Board accepts the testimony of Mr. Staiger evaluating the gaps in the traffic flow and his opinion that there is sufficient gaps in the traffic flow to accommodate projected arrival and departure volumes. Mr. Staiger also testified as to the queuing capacity to accommodate 40 cars; that the site driveway will operate safely and efficiently; and that there is sufficient parking at the site.
- m. The Board has applied the standards set forth in Coventry v. Westwood and finds that the deviations from the conditional use will not have a negative impact upon the adjacent properties since the non-conformities are existing and the requested variances will not result in any detrimental impacts to the surrounding areas and will not

cause damage to the character of the neighborhood.

n. Based upon the testimony presented by the applicant's experts, the Board concludes that the applicant has met its burden of proof to entitle the grant of the conditional use variance for a private elementary school in the BA zone.

o. The Board finds that the deviations from the conditional use requirements are not substantiated, but minimal and will not be detrimental to the public good.

p. The Board concludes that the applicant has met its burden of proof with regard to the "C" variances which are required and not subsumed in the "D" variance including landscaping buffer; parking in front yard; parking in rear yard; and landscaping in parking lot areas, since some are existing conditions as set forth in the report of Planning Consultant Gregory Associates dated March 27, 2018.

q. The Board concludes that the benefits of the application outweigh any detriments; and

WHEREAS, the Board finds from the testimony presented by the applicant's planner that the proposed school will be in accord with the intent of the master plan and the zone ordinance since it is a permitted use; and

WHEREAS, the Board finds from the testimony of the applicant's traffic expert that the proposal will not be detrimental to the health, safety, and general welfare of the neighborhood since traffic will be regulated at peak hours by a police officer of officer of the Passaic County Sheriff's Office;

NOW THEREFORE, BE IT RESOLVED that the application to convert an office building into a private elementary school at premises located at 1333 Broad Street, Block 76.01, Lot 5, be and the same is hereby approved and the preliminary and final site plan approval, conditional use variances, and bulk variances for lot width, lot coverage, side yard, and both side yards be and the same are hereby granted; and

BE IT FURTHER RESOLVED that variances be granted for parking and drive aisles proposed in the front yard; parking and drive aisles proposed along the rear property line where 5 feet is required; variance required for setback, existing condition; variance required for landscaping since modifications are being made to the parking area; and provide landscaping for the interior parking lot areas at a minimum of 20 square feet of interior lot landscaping for each parking space is hereby granted subject to such further governmental approvals as may be required by law and **subject to the following:**

(1) Enrollment of students shall not exceed THREE HUNDRED FIVE (305) students. For each school year, applicant shall provide Zoning Officer FIVE (5) days before school begins with a list of names and addresses of students in attendance for that school year for the next TWO (2) full school years.

(2) No garbage pick-up at the site before 7 A.M.

(3) Compliance with all requirements of Neglia Engineering in its reports dated December 7, 2016, and March 21, 2018.

(4) Applicant shall arrange with the Police Department of the City of Clifton or Sheriff's Office of Passaic County to have on duty an officer to direct traffic at the site from 7:40 A.M. to 8:40 A.M. and 3 P.M. to 5 P.M. After TWO (2) years, this shall be reviewed with the respective officials for future implementation.

As well as subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic

Valley Sewer Commission, if necessary.

6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.
16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. 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.
24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void, or as amended.

Resolution moved by: Comr LOUIS DE STEFANO.
Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

MEETING OF MARCH 6, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MARIA RODRIGUEZ for premises known as: 27 Concord Street, Block 23.02, Lot 10 be and the same is hereby: GRANTED rear yard setback variance to build a 10- by 16-foot rear deck.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 6, 2019. 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 rear yard setback variance approval to build a rear deck at premises located at 27 Concord Street, Block 23.02, Lot 10, 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 applicant proposes to build a 10- by 16-foot rear yard deck;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 28 feet;
- c. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- d. The benefits of the application outweigh the detriments, if any; and

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

NOW THEREFORE, BE IT RESOLVED that the application to erect a 10- by 16-foot rear yard deck at premises located at 27 Concord Street, Block 23.02, Lot 10, be and the same is hereby approved and the rear yard setback variance be and the same is hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.
16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.

20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.

21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.

22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.

23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. 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.

24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void, or as amended.

Resolution moved by: Comr DANIEL TRENK.

Seconded by: Comr GEORGE FOUKAS.

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

MEETING OF MARCH 6, 2019.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,**
that the application of: **ERIC PHILIP**
for premises known as: **95 Ridgewood Road, Block 55.07, Lot 5**
be and the same is hereby: **GRANTED** a **2 ½-foot left side yard setback variance**
to widen the driveway and to increase the driveway 2 ½ feet to the right, retaining
the present 12-foot-wide curb cut.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 6, 2019. 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 Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval for an extension of the driveway to the left side lot line and a 16-foot-wide curb cut at premises located at 95 Ridgewood Road, Block 55.07, Lot 5, 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 applicant proposes to extend his driveway 0 feet from the left side lot line where 5 feet is required;
- b. The applicant has agreed to reduce the left side yard setback to 2 ½ feet to widen the driveway and add 2 ½ feet to the right side of the driveway;
- c. The applicant has agreed to retain the 12-foot curb cut;
- 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 the proposal will not be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to widen the driveway at premises located at 95 Ridgewood Road, Block 55.07, Lot 5, be and the same is hereby approved and the 2 ½-foot left side yard setback variance be and the same is hereby granted subject to such further governmental approvals as may be required by law and **subject to the stipulation that the application is amended to reflect a 2 ½ foot setback variance to the left side lot line to increase the driveway and to increase the driveway 2 ½ feet to the right, retaining the 12-foot curb cut** and the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.

16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. 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.
24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void, or as amended.

Resolution moved by: Comr LOUIS DE STEFANO.
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.