

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, November 20, 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, LOUIS DE STEFANO, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR DANIEL TRENK.

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 Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, the Minutes of the November 6, 2019, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARING

1. JOHN ZELENKA, 250 Delawanna Ave.,
Use Block 59.06, Lot 93 – M2 – Applicant
Variance; proposes to use rear portion of lot for
Variances parking and storage of equipment for his
 tree and snow removal company. A use
 variance is required as the existing
 printing business will remain in the
 principal building, two uses on one lot.
 Bulk variances for preexisting conditions
 together with such other necessary relief
 as deemed proper.

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Clifton, New Jersey, appeared on behalf of the applicant. Also present and sworn was the applicant, John Zelenka, of 14 Heights Road, Clifton, New Jersey. There were no objectors.

The Board was in receipt of report of its planning consultant, Gregory Associates, LLC, dated November 11, 2019.

Mr. Peterson presented the case on behalf of the applicant and stated that the applicant proposes to utilize a large, unused area to the rear of the printing business for outdoor parking and storage of applicant's tree and snow removal vehicles and equipment; that the site is irregular in shape with a total lot area of 31,982 square feet; that the site contains an existing one-story industrial building with a parking area to the rear; that the premises are located in an M-2 general industrial zone with frontage along Delawanna Avenue; that a use variance is required for two uses on the property since the printing company will remain on the industrial lot; that a use variance is required for outdoor storage of vehicles and equipment not associated with the principal use on the property; that bulk variances are required for: (1) side yard setback for outdoor storage where 40 feet is required and the applicant's outdoor storage abuts the property line; (2) rear yard setback for outdoor storage where 40 feet is required and the applicant is proposing 8.05 feet; (3) parking setback where parking is located abutting the rear property line along the easterly side and parking of vehicle equipment abutting the northwesterly side lot line; (4) parking lot landscaping where none is provided; and (5) parking stall size where 9- by 19-feet is required and 9- by 18-feet is proposed; that the applicant proposes to gravel the portion of the site in the rear that currently contains trees and green space, relocate a salt/storage bin to the rear of the property, provide three 10- by 30-foot spaces and two 10- by 40-foot spaces, a 10- by 20-foot container, and a 10- by 40-foot container; that the existing rear area that is macadam is proposed to be striped with 11 parking spaces, including one accessible space; that six of the spaces are proposed behind the existing building and are angled in position, and the remaining five spaces align with the eastern property line.

After a review of the testimony, Comr Louis DeStefano moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the following stipulations:

1. Hours of operation will be Monday through Friday from 7 A.M. to 6 P.M.;
2. That there be no storage of lumber, logs, mulch, and wood chips; and
3. That salt is to be properly contained.

The motion was seconded by Comr George Foukas. Voting in the affirmative were Comrs Scott Sochon, Michael Molner, 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

1. Upon motion made by Comr Roy Noonburg, seconded by Comr George Foukas, and affirmed by Comrs Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution DENYING the application of NELY ALTAMIRANO for use variance for expansion of a non-conforming two-family dwelling and changing location of one-car garage at 42 Paterson Avenue, Block 82.02, Lot 64, was adopted. RA3

2. Upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of DENA CONSTANDELIS for a use variance to expand an existing dental office on the ground floor at 465 Valley Road, Block 32.02, Lot 1, was adopted. RB1

ADOPTION OF LEGAL NOTICE FOR 2020 MEETINGS

Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Legal Notice listing the reorganization meeting and meeting dates for 2020 was adopted.

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF NOVEMBER 20, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JOHN ZELENKA for premises known as: 250 Delawanna Ave., Block 59.06, Lot 93 be and the same is hereby: GRANTED use variances for outdoor parking and storage of vehicles not associated with the principal use and two principal uses on an industrial lot and bulk variances for outdoor storage in side yard and rear yard, parking setback, parking lot landscaping, and parking stall size for outdoor parking and storage of tree and snow removal vehicles and equipment.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 20, 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 use variances and bulk variances approvals for outdoor parking and storage of tree and snow removal vehicles and equipment at premises located at 250 Delawanna Avenue, Block 59.06, Lot 93, which premises are located in an M-2 zone; and

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

- a. The applicant proposes outdoor parking and storage of tree and snow removal vehicles and equipment to the rear of the premises in question which contains an existing one-story industrial printing business building;
- b. A use variance is required for outdoor parking and storage of vehicles not associated with the principal use;
- c. A use variance is required for two principal uses on an industrial lot;
- d. Bulk variances are required for side yard setback for outdoor storage where 40 feet is required and the applicant's outdoor storage abuts the property line; rear yard setback for outdoor storage where 40 feet is required and the applicant is proposing 8.05 feet; parking setback where parking is located abutting the rear property line along the easterly side and parking of vehicle equipment abutting the northwesterly side lot line; parking lot landscaping where none is provided; and parking stall size where 9- by 19-feet is required and 9- by 18-feet is proposed;
- e. The applicant is providing three 10- by 30-foot parking spaces, two 10- by 40-foot parking spaces, and eleven 9- by 18-foot parking spaces, one of which is handicap accessible;
- f. The site is irregular in shape, and the proposal is uniquely suitable to the site;
- g. The applicant has satisfied the positive and negative criteria required for the grant of the use variances;
- h. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;
- i. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that there has been no testimony presented to show that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood since the applicant has stipulated to certain conditions as contained herein;

NOW THEREFORE, BE IT RESOLVED that the application for outdoor parking and storage of tree and snow removal vehicles and equipment to the rear at premises located at 250 Delawanna Avenue, Block 59.06, Lot 93, be and the same is hereby approved and the use variances and bulk variances as aforesaid be and the same are hereby granted subject to such further governmental approvals as may be required by law, **SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL, IF REQUIRED; and subject to the following:**

- A. Hours of operation will be Monday through Friday from 7 A.M. to 6 P.M.;
- B. That there be no storage of lumber, logs, mulch, and wood chips; and
- C. That salt is to be properly contained.

Also 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; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

Resolution moved by: Comr LOUIS DE STEFANO.

Seconded by: Comr GEORGE FOUKAS.

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