

Minutes of a **special** meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, June 28, 2023. 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 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.

PRESENT: COMRS. DAVID BRAID, ALESSIA ERAMO, MAUREEN O’CONNOR, ZALMAN GURKOV, MICHAEL MOLNER, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO AND CHRMN MARK ZECCHINO.

ABSENT: COMR SCOTT SOCHON.

Chrmn Zecchino advised all applications 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. Use Variance;
Variance;
Site Plan
iLEARN SCHOOLS INC, 400 Mt. Prospect Ave., Block 55.03, Lot 1–R-A2 – The applicant seeks preliminary and final major site plan approval, a conditional use variance, and bulk variances to expand the existing elementary school building that exists on the property and keep the existing church building. The school seeks to convert existing convent space to school use and to fill in the interior courtyard to add a gymnasium and other school uses. Applicant is seeking variances pursuant to N.J.S.A. 40:55D-70(c) and (d), because it will have two principal structures- a school structure and a house of worship structure- on the same lot, and a variance for failure to meet the conditional use maximum lot coverage of 20% where the Applicant is seeking 21%, and the continuation of a pre-existing condition whereas the minimum front yard setback for schools is 25FT and 15.9FT is existing and will remain. The Applicant may seek any additional variances and/or waivers as required by law or by the City of Clifton Zoning Board of Adjustment.

Michael J. Lipari, Esq. of Mandelbaum Barret PC, with offices at 3 Becker Farm Rd., Suite 105, Roseland, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Richard Arslan, of iLearn Schools Inc, with offices at 330 Broadway, Suite 301, Fair Lawn, New Jersey, on behalf of the applicant; Christine Mioli-Black 1015 Maccullough Ave, Morristown, Director of Operations, Marc G Walker, P.E. of Dykstra Walker Design Group PA, with offices located at 21 Bowling Green Parkway, Suite 204, Lake Hopatcong, New Jersey, an engineer; Christine Cofone of Cofone Consulting Group, with offices at 125 Half Mile Rd, Red Bank, NJ 07701, a planner; on behalf of the applicant; and Nassir Almukhtar, RA of Heritage Madison Architecture, LLC, with offices at 1171 Madison Ave, Suite 201, Paterson, New Jersey, an architect.

The following objectors and interested parties were present and sworn: Gary Perino, 491 Mt Prospect Avenue; George Cowan, 188 St. Andrews Blvd; Robert Gary, 16 Luisser Street; Donna Popowich, 57 Dalewood Road; Linda White, 215 Beverly Hill Rd.; Vita Cowan, 188 St. Andrews Blvd.; Donna Camp, 172 St. Andrews Blvd.; Mickey Gaudette, Bergen Rd.

The Board is in receipt of: Engineering Review No. 1 from its Engineer, Neglia Engineering Associates dated June 16, 2023; Planning Review No. 1 from its Planner, Graviano & Gillis Architects & Planners LLC dated June 25, 2023; and June 28, 2023 Memo from Fire Marshal Michael Pressler.

Mr. Lipari stated that the applicant is seeking preliminary and final site plan approval as well as conditional use variance in order to expand the existing school within the church's convent building. The applicant also seeks to construct a gymnasium facility. The footprint will not expand, but rather the current space will be more fully utilized. Mr. Lipari stated that the property currently houses both a church and a school, and that the conditional use variance is required to permit both uses to occur simultaneously. Mr. Lipari also explained that a private school is a conditional use, which has 12 conditions. The applicant meets all but 2 conditions. The applicant does not meet the criteria related to: (1) minimum front yard setback of 25 ft is required and 15.9 ft is existing and will remain; and (2) building coverage (20% max coverage; 21% coverage requested). Mr. Lipari explained that the lot coverage requires the inclusion of the church. Otherwise, this construction is minor changes and upgrades.

Mr. Arslan testified regarding the purpose and operation of the applicant. The applicant has operated a school since its occupation of the property and approximately 400 students attend the school. The facility has been lacking a gymnasium space. Previously, students are conducting gym classes in a parking lot. The applicant wants to add the gymnasium space for safety and security reasons. Mr. Arslan stated that the school is currently K to Grade 3, and they are looking to add 4th grade, which will increase enrollment by 100 students.

Vice Chrmn Scorziello asked what portion of the enrollment is comprised of Clifton residents. Mr. Arslan stated that the student body is made up of students from Clifton and Passaic and a majority of students are from Clifton. He stated he expects the make up will remain similar with the expansion of the student body. Vice Chrmn Scorziello asked about selection and enrollment criteria for students, particularly Kindergarten. Mr. Arslan stated that selection is done through a lottery system and not a merit based system.

Comr. O'Connor asked about the length of the recently resigned lease. Mr. Arslan stated that the lease is for 30 years. Comr. O'Connor asked how many applicants are received annually. Mr. Arslan stated that there are 100 students per grade level and they receive approximately 1000 applicants total annually over the entirety of all campuses. Mr. Arslan stated that this site is the elementary school and they operate other sites throughout town.

Comr. Eramo asked about the facilities being added. Mr. Arslan stated that 6 full size classrooms will be added, as well as a multipurpose room; a special education classroom; office space for administrative teams that are separated by grade level; and a gymnasium.

Christina Mioli-Black was called as a witness. Ms. Mioli serves as the applicant's Director of Operations. She will be serving as the Acting School Director for this school year. She provided testimony regarding students and day to day operations. Ms. Mioli offered information regarding security including cameras outdoors, security guards, centralized CCTV system in the main office, active shooter alarms, and access card entry. Ms. Mioli stated that the current staff is 16 adults. This will increase by 5 next year due to the increase in special education teachers, security guards, secretary, and receptionist.

Ms. Mioli stated that staff arrives at 7:30 am and departs at 3:30 pm. Students arrive at 7:40 am and depart by 3:00 pm. Ms. Mioli summarized student drop off. 85% of student population are Clifton students. Students are dropped off via bus in a large back parking lot. Students enter from St. Andrews via a one way flow, and exit onto Mount Prospect. This has been in place for 3 years and has not had any issues. Ms. Mioli stated that staff members are outside every day to direct traffic and ensure continued flow. Ms. Mioli stated that the only issue of pick up and drop off has been due to PSEG work which resulted in the need for parents to pivot. Otherwise, there have not been any issues. Ms. Mioli also stated that the lot is well paved.

Ms. Mioli stated that students will commence on August 28 and the school year runs for 10 months. The school also offers a 2 week summer enrichment program which is attended by approximately 30 students. Staff are 11 month employees who depart on June 30 and return on August 1.

Comr. Molner asked about staff on St. Andrews Blvd. because he has seen people pulling into that area and attempting to back out. He expressed concern over this causing a risk to student safety and asked if there is staff on this street to monitor this. Ms. Mioli stated that previously, staff was not on St. Andrews but that for the upcoming school year she will ensure that a staff member is present to address the issue.

Vice Chrmn Scorziello asked about the student population and whether the number of Clifton students is mandated. Ms. Mioli stated that the lottery system dictates enrollment but that enrollment usually follows where the school is physically located. She stated that it is possible that numbers could shift to be a minority of Clifton students, but this is unlikely.

Comr. Braid asked about what percentage of students ride the bus. Ms. Mioli stated there are about 100 students ride the buses. Ms. Mioli stated that there is a high sibling ratio which would result in a reduction in the number of cars to be expected on campus. She stated she does not expect that each additional student will bring an additional car on to the property.

Nicholas Graviano, of Graviano & Gillis, recommended that the applicant provide parents with a manual regarding pick up and drop off and what can be done or not done. Ms. Mioli agreed and stated that the information will be provided at Back to School Night.

Comr. Gurkov asked where students will go during construction. Ms. Mioli stated that students are currently attending school at St. Brandons, which they will continue to attend.

Interested Party Gary Perino asked if Ms. Mioli is present on St. Andrews Blvd through pick up and drop off. He echoed Comr. Molner's comments. Ms. Mioli stated she was unaware of any traffic issues but now that she has been made aware of them, she intends to address it. Mr. Perino asked if Ms. Mioli was aware of cars parked in a no parking zone. Ms. Mioli stated that staff are not allowed to park there, but she will make sure that no staff are parked there. Mr. Perino asked what is the plan to eliminate traffic on St. Andrews Blvd. Ms. Mioli stated that she will make all families aware of the process and how the traffic should operate and with the growth in security staff, they will ensure someone is sent out on property.

Interested Party George Cowan stated he is unhappy with students playing on the outside of the school. He asked why students were outside and exposed on grass. Ms. Mioli stated that this is why they are asking for the gym. Mr. Cowan stated that this was a bad answer and the students could play in the parking lot. Ms. Mioli stated that it is unsafe for elementary students to play on pavement. Mr. Cowan asked how drop off and pickup will be handled during construction. Ms. Mioli stated that the student population will be housed in a different location.

Comr. Gurkov asked for clarification as to where the students will be housed as it appears that a portion of the students will remain on campus during construction and a portion will not. Mr. Lipari stated that the site engineer testimony may clarify the operations during construction.

Comr. Foukas asked how students are allowed to play outside. Ms. Mioli stated that there is a playground, but field day could not occur on the playground.

Mr. Graviano recommended that the applicant provide testimony as to how the gymnasium will impact operations. Ms. Mioli stated that the applicant is looking to construct a gymnasium for physical education classes as well as the holding of school events within the campus.

Mr. Lipari offered Mark Walker as a witness. Mr. Walker provided engineering testimony.

Mr. Walker offered the following exhibits:

- Exhibit A-1 – Aerial Photograph of Existing Conditions
- Exhibit A-2 – Aerial Photograph of Proposed Site Plan

Mr. Walker reviewed Exhibit A-1. He stated that the property consists of 2 large buildings. The first building is an 800 seat church and the second building is the iLearn School. The school contains classrooms and dormitories. Toward the rear of the building is a large parking lot. Along the rear property line is an 8 foot wall. To the south and east are residential homes. Mr. Walker stated that the site is fully developed and fully conforming except for the building setback for the school. The school building is 15.9 ft away and the conditional use requirement is 25 feet. This nonconformity is currently in existence.

Mr. Walker reviewed Exhibit A-2. He stated that the orange block is the proposed gymnasium. The applicant proposes to convert the convent to 8 classroom and construct an 8,489 sq ft gymnasium. There are no showers proposed in the gym. The gym is the only new building and the height of the new building would comply with the city ordinances. The building will also conform with the setback requirements. The gym will be constructed within the existing court yard. Currently, the courtyard is some vegetation and some paving. The applicant is also proposing to add landscaping outside the building to ensure that the impervious coverage will not be increased. There will be 3 additional parking spaces added and all ADA requirements will be satisfied. Because there are 300 parking spaces provided in total on site, there will be 7 handicap parking spaces. The applicant will remove some front of the building spaces and ensure that all handicap spaces will be provided and comply with Code requirements.

Comr. Foukas asked what dictates the number of handicap parking spaces. Mr. Walker stated that each building will be looked at both individual as well as the site as a whole to ensure full compliance. Comr. Foukas also asked how the uses are different as schools and houses of worship frequently co-exist. Mr. Lipari stated that the ordinance is based on the master plan even through this building has been in existence as a school since the 1950s.

Mr. Graviano stated that the school in this case is a separate operating entity.

Mr. Walker stated that there are dumpsters in the courtyard. A dumpster pad will be provided along the rear 8 ft wall. The dumpsters will be in a totally concealed enclosure. Mr. Walker stated that the creation of the gym increases the lot coverage to 21% where 20% maximum is permitted. Therefore, a variance is requested. Mr. Walker stated if the property was just a church, lot coverage could be 35% and if the property was a residence it could be 30%. As a result of the school use, this reduces the lot coverage maximum to 20%. The property is 6 acres without counting the right of way. When the right of way is included, the lot coverage is reduced to approximately 19%.

Mr. Walker discussed lighting. The applicant is proposing on turning off lights on non-event days at 9 pm. On event days, lights will be turned off immediately after the event. Mr. Walker addressed water and sewage issues. He testified that the existing convent would use more water and sewage than classrooms. There is an increase in gallon uses by approximately 100 gallons per day. The DEP requires that flow be increased by 1.5 because laundry is done on site. This increases the flow numbers to 7650 gallons per day. The water demand is being decreased by 1650 gallons per day.

Mr. Walker addressed Neglia's engineering recommendations. The applicant has no objection to placing the dumpsters on a concrete base. Mr. Walker requested a waiver on the differential of impervious coverage. Brian Intindola of Neglia Engineering stated that there is a de minimus increase in impervious coverage and there is an increase in clear water. Therefore, it is Mr. Intindola's opinion that a drainage report is not required. Mr. Walker also stated that the applicant will provide additional information to Neglia regarding ADA compliance.

Mr. Walker stated that new lights will be added to the rear of the property. Mr. Walker also stated that the applicant will plant some additional trees but requests a waiver for the requirement of certain trees. Chrmn Zecchino asked as to why the applicant is requesting a 2.5 ft caliper tree. Mr. Walker stated that the applicant has no issue complying with the ordinance.

Mr. Walker addressed Graviano & Gillis' planning requirements. He stated that the applicant will get the required tree removal permit.

Mr. Graviano stated that normally trash enclosures are recommended to be the same material as the existing building but recommended a more sturdy material. Mr. Walker stated that the applicant has no objections.

ViceChrmn Scorziello asked about EV charging stations. Mr. Intindola stated that this is not a new construction so any EV charging stations proposed are done so voluntarily.

Comr. Eramo asked about the reduction in impervious service when the court yard is being removed. Mr. Walker stated that the courtyard is partially paved and that is where the gym will be constructed. There is also a portion of existing asphalt which will be removed. Therefore, the impervious coverage being removed is less than what is being added. Comr. Eramo asked where the roof drains drain to. Mr. Walker stated that there is a stormwater system along the back of the site. Mr. Walker also stated that 2 Japanese maple trees would be planted. Comr. Eramo stated that she believed the ordinance requires that a major tree removal must be matched with the planting of a major tree. Mr. Walker stated he had reviewed the planners report and would adjust accordingly.

Mr. Cowan asked about handicap parking and accessibility. Mr. Intindola stated that the applicant has offered to review the existence, location, and grading of the handicap spaces and will consult and work with Neglia to ensure full compliance. Mr. Walker stated that the school will have a handicap ramp entrance in the rear of the site with 3 new spaces. Mr. Cowan asked about the actual placement of the gym. Mr. Walker walked Mr. Cowan through Exhibit A-2 to provide clarification. Mr. Cowan asked about lighting. Mr. Walker stated that there are foot candle and light spillage requirements. He stated that there will not be any roof lighting and lighting in the back will be screened from the building. Mr. Cowan asked about the dumpster location. Mr. Walker stated that water drains toward to the middle of the parking lot due to the pitch of the lot. Mr Walker stated that the dumpsters will be enclosed with solid material and shield.

Mr. Lipari offered Mr. Almkhtar as a witness. Mr. Almkhtar offered architectural testimony. Mr. Almkhtar stated that the application has two components: (1) convert the convent and (2) add the gym building. The Convent has two floors and a half a basement. Mr. Almkhtar stated that conversion of the convent is minor construction and is the first phase of the project. The Convent construction will not impact the operation of the school. The second phase is the gym. The construction on the gym will ideally take place during the summer when no students are present. The gym construction is a pre-fab building which will assembled on site.

Mr. Almkhtar explained what the classrooms within the convent will be used for. Mr. Almkhtar also stated that the gym will have a drop down partition to split the gym into two spaces, as well as a stage and small storage area. Mr. Almkhtar stated that emergency vehicles will have a driveway access up to the door of the gym. The gym will have double doors to allow for easy access. Mr. Almkhtar also explained that he has revised his plans to eliminate the need for a height variance on the gym.

Mr. Almkhtar explained that the gym will have a chair lift and will also be at the same level as the rest of the school. The gym will have two handicap accessible entrances. Chrmn Zecchino asked if the gym will be sprinklered and Mr. Almkhtar confirmed that the building will be sprinklered. Mr. Almkhtar was provided with a copy of the Fire Marshal's report. Mr. Almkhtar confirmed that the applicant will comply with the report and consult with the Fire Department.

Comr. Molner asked about second floor handicap access. Mr. Almkhtar stated that there would not be an elevator but that such may be possible in the future.

Comr. Braid asked about gym capacity and if it is adequate to fit the needs of the school. Mr. Almkhtar stated that the gym capacity will be discussed with the Fire Department and comply with all requirements.

Mr. Almkhtar stated that the convent space has half of a basement and it will be used as a cafeteria space. Mr. Almkhtar stated that the space will also be sprinklered but that all consultation will be done with the Fire Department. Mr. Almkhtar stated that the applicant will review and consult with the Planner to ensure compliance. Mr. Graviano stated that discussion can and should occur related the façade of the building.

Mr. Gary Perino asked about the convent space and how a special needs student will travel on the floor without an elevator. Mr. Lipari stated that “special needs” is a broad definition. Mr. Porino asked if there will be an elevator and Mr. Almukhtar stated that there will not be.

Interested Party Donna Popowich asked about the number of classrooms without windows. Mr. Almukhtar stated that some of the classrooms will not have windows. Ms. Popowich asked about safety implications with no windows. Mr. Almukhtar stated that only bedrooms are required to have windows. Mr. Graviano stated that plans will be reviewed by both the Building Department and the ECA. He stated that the witness was correct that not all rooms must have windows.

Ms. Popowich asked why the applicant will be using a truss roof. Mr. Almukhtar stated that this is standard for a gymnasium due to the size and need of the building. Mr. Almukhtar that this is a steel truss roof which will improve the quality and safety of the roof. Mr. Intindola stated that the roof has to be tested related to the load capacity and comply with current code requirements. Mr. Graviano also stated that the roof is pitched which will help snow flow. Ms. Popowich asked how students will access the second floor without an elevator. Mr. Graviano stated that the Board is not the entity to determine whether an elevator is required. Such determination is made by the Building Department or DCA.

Interested Party Linda White asked if the lot coverage amount can be reduced to ensure compliance with the lot coverage maximums. Mr. Lipari stated that the variance is asked for in an abundance of caution without including the right of way in the calculation, and the change is de minimus.

Mr. Lipari offered Christine Cofone as a witness. Ms. Cofone offered planning testimony. Ms. Cofone offered testimony related to the fact that the ordinance does not permit two different uses on the property. In addition, the applicant is requesting a conditional use variance as two of the conditions required for the conditional use are not met. The conditions which are not met are the front yard setback (which is not being expanded) and the lot coverage, which is a deminimus increase.

Ms. Cofone stated that the use is inherently beneficial, which satisfies the positive criteria for the D1 variance. Ms. Cofone offered testimony regarding the Sica balancing test. Ms. Cofone explained that the balancing test required that the public interest be identified, as well as the detrimental effects, and whether granting the variance would cause a substantial detriment to the public good. Ms. Cofone stated that the Sica criteria are met as there will be adverse or increase in drainage. The only change is that the courtyard will be filled. The building also enhances the educational impact on students. There is no substantial detriment to the public good.

Ms. Cofone acknowledged the Graviano & Gillis comments regarding the masking of the property and the exterior thereof. Ms. Cofone also addressed the goals of the master plan. Ms. Cofone stated that the application furthers Goal 9 by providing adequate community facilities to the public. Ms. Cofone states that the application enhances the Master Plan’s policies as this expands the existing school and promotes the general welfare. Ms. Cofone also stated that the application advances the MLUL by improving properties to avoid urban sprawl. Therefore, the negative criteria are satisfied as the application will not substantially impair the intent and purpose of the zone plan and the zoning ordinance. Ms. Cofone explained that the building is an asset to the community.

Mr. Graviano stated he agreed that this is an inherently beneficial use and that the applicant is making a number of calculations and variances requests out of an abundance of questions. Mr. Graviano also stated that he does not believe there will be drainage concerns, and acknowledges the benefit to the community and the students. Therefore Mr. Graviano opined that the applicant satisfied both the D1 and d3 proofs.

Interested Party Vita Cowan asked about pick up and drop off. Ms. Cofone explained that her testimony was based on a concern of the public related to pick up and drop off and how it impacts the balance test. Ms. Cowan expressed concern about protecting children and how the community can address the issue.

Vice Chrnm Scorziello stated he appreciated community input.

Mr. Graviano stated that it may be beneficial to the community to designate a point person for contact of issues.

Interested Party Donna Camp expressed concern regarding pick up and drop off.

Comr. Foukas asked if the security guards have the capacity to require drivers to move cars. Mr. Lipari stated that the applicant will do anything they need to do to reduce these issues.

Comr. Molner suggesting changing what streets to enter and exit on.

Mr. Intindola expressed the need to communicate and expand efforts to communicate the need of parents to comply with safety rules.

Mr. Lipari offered a closing statement. He explained that this application involves a minor expansion. The applicant has heard the community concerns and will include those. Mr Lipari also stated that the applicant will provide a minimum of 4 EV spots.

Mr. Perino offered a closing statement and stated he has no fight with the school. His concern is traffic. He stated it is a major problem. He asked that if the application is approved that a traffic plan be established. Mr. Perino stated that parents are not following the traffic requirements.

Ms. Cowan suggested that the applicant not dismiss out the front door.

Ms. Gaudette stated that students of the age that attend the school should not walk because it is not safe. She stated that all schools have traffic issues. Ms. Gaudette stated that there is a portable ramp to allow handicap students to attend. Ms. Gaudette explained the federal regulations and stated that the applicant;s review of handicap spots is unheard of and is phenomenal. Ms. Gaudette explained this is a state funded school.

Ms. Popowich stated she needs more information and expressed concern that there is not a traffic report. Ms. Popowich expressed concern about adding any buildings due to flooding and the need for an environmental report. Ms. Popowich asked if the ADA officer needs to approve these plans.

Comr. Braid asked about deliveries and about times. Mr. Lipari recalled Ms. Miloni. Ms. Miloni stated that trash and recycle come at 6 am prior to student arrival. Midday arrivals are food products. Comr. Molner stated that the ordinance requires that trash pick up cannot occur before 7 am. Mr. Lipari stated that the applicant will review the current process to ensure compliance with the ordinance.

As a condition of approving the property, the Board instituted the following stipulations:

1. The applicant will submit a pick up and drop off protocol which will be enforced and distributed to all parents.
2. The applicant will comply with the Fire Marshal's report related to the sprinklers;
3. The applicant will designate a point person for community contact. Such point person will provide their name and phone number for contact.
4. The applicant will provide a minimum of 4 EV spots.
5. The applicant will work with the planner regarding the façade.
6. The dumpster enclosure will be brick increase of white vinyl
7. The applicant will work with Neglia to address all comments provided in the Planning report.
8. Trash pickups will be completed as the ordinance provides

After a review of the testimony, Vice Chrmn Gerard Scorziello moved to approve the application with the noted stipulations and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Michael Molner. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, with addition of the stipulations, Maureen O'Connor, Zalman Gurkov, Michael Molner, recognizing the deminimus changes, George Foukas, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

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

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

Respectfully submitted,

JACLYN M. MORGESE, ESQ.
COUNSEL SECRETARY

MEETING OF JUNE 28, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **iLEARN SCHOOLS INC**
for premises known as: **400 Mt. Prospect Ave., Block 55.03, Lot 1**
be and the same is hereby: **GRANTED preliminary and final major site plan approval, conditional use variance, and bulk variances related to the expansion of the existing elementary school building.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 28, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Vice Chrnm Gerard Scorzeillo moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests preliminary and final major site plan approval, conditional use variance, and bulk variances related to the expansion of the existing elementary school building; and

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

a. The applicant leases space on the property for purposes of operating a private school. The property is owned by the St. Andrew the Apostle Roman Catholic Church, which also operates a house of worship in a separate building on the property.

b. Due to increasing educational needs, the applicant seeks to expand the school. This expansion includes the renovation of the existing convent facility, which is adjacent to the current school building, as well as the construction of a new gymnasium facility.

c. As part of this application, the applicant seeks preliminary and final site plan approval, D1 and D3 variances, as well as bulk variances.

d. A D1 variance is required as only one principal use per lot is permitted in the zone. Currently and for many years, the property has housed multiple uses as both the church and school operate on the same property. To receive a D1 variance, the applicant must satisfy the positive and negative criteria pursuant to the Municipal Land Use Law (“MLUL”).

e. A D3 variance is required as private schools are a conditional use in the zone. The applicable ordinance provides a number of conditions which must be met in order to permit the proposed use.

f. Of those conditions, the applicant provided testimony that they meet all conditions except for maximum lot coverage (21% coverage where a maximum of 20% is permitted) and minimum front yard set back (15.9 feet is existing and proposed where 30 feet is required).

g. The Board has the power to grant a D3 variance “in particular cases and for special reasons” and when a showing has been made that there will be no substantial detriment to the public good.

h. The applicant’s experts provided clear testimony that the proposed use is for a school building. Pursuant to law, school buildings are an inherently beneficial use. This satisfies the positive criteria requirement established by the MLUL.

i. The applicant’s experts also provided clear testimony regarding whether there is a negative impact on surrounding property owners. This included an identification of the public interest at stake, whether such interest is compelling when compared to other inherently beneficial uses, an identification of any detrimental effects, and whether such detrimental effects may be reduced by imposing reasonable conditions on the use.

j. Interested parties and community members expressed concern regarding traffic and safety issues related to student pick up and drop off. As a condition of approval, the Board imposed a condition requiring the applicant to designate a point person for community contact as well as the requirement that a pick up and drop off protocol be established and enforced and distributed to parents.

k. Given the establishment of these conditions, the Board is satisfied that, in light of the balance of the positive and negative criteria, that the variances may be granted without causing substantial detriment to the public good or substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

l. The applicant has stipulated that:

1. The applicant will submit a pick up and drop off protocol which will be enforced and distributed to all parents.
2. The applicant will comply with the Fire Marshal's report related to the sprinklers;
3. The applicant will designate a point person for community contact. Such point person will provide their name and phone number for contact.
4. The applicant will provide a minimum of 4 EV spots.
5. The applicant will work with the planner regarding the façade.
6. The dumpster enclosure will be brick instead of white vinyl
7. The applicant will work with Neglia to address all comments provided in the Planning report.
8. Trash pickups will be completed as the ordinance provides

m. The applicant has shown sufficient hardship to justify the grant of the variance requested;

n. 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 proposed addition will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for preliminary and final major site plan approval, conditional use variance, and bulk variances related to the expansion of the existing elementary school building for premises located at 400 Mt. Prospect Ave., Block 55.03, Lot 1, is hereby approved and the variances are 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. 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.
4. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
5. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
6. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
7. Payment of any other fees due to the City of Clifton related to development or use of this project.
8. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
9. Passaic County Planning Board approval or waiver.
10. Hudson Essex Passaic Soil Conservation District approval or waiver.
11. 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.
12. 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.
13. 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.

14. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.

15. All temporary encroachments into the public right-of-way shall require City Council approval.

16. All construction staging shall be done on-site, unless an encroachment for the same into the public right-of-way shall be approved by City Council.

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

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

19. 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.

20. 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.

21. 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:
Seconded by:
Affirmed by:

Vice Chrmn GERARD SCORZIELLO
Comr. MICHAEL MOLNER
Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.