CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, FEBRUARY 22, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:08 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade and John Caliguire

Also Present: Richard O'Connor; Township Engineer, Kevin O'Brien; Township Planner, Gordon Meth; Township Traffic Consultant, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

NEW BUSINESS

Calendar #6-15, V & R Developers, 1132 Westfield Avenue. Stanley Fink is the Attorney representing the Applicant.

Spialter: A Certification from Steve Kaminsky was received that he has reviewed the tapes due to his absence from this application.

Fink: Our traffic expert had testified last time and I would like to continue with the traffic expert due to revisions that were submitted to you.

Mr. Gesario submitted Exhibit A-6 which was a revised color rendering of A-3. Mr. Gesario pointed out some revisions to the plan such as moving the building back, changes to turning movement out of driveway which would restrict left hand turns during certain hours, five more parking spaces, additional green space where catch basin was on A-3, additional landscaping, no parking at front entrance, a 22' driveway now reflects a 24' driveway and variance for side yard was eliminated. ***Several questions were asked from Board Members regarding parking.***

Mr. Fink: you did speak with the police and fire department with parking and they were okay with it? Yes, they were more concerned about restricting the left hand turn movement. Mr. Kaminsky asked what are the ages of the children and if there would be sidewalks. Mr. Jarmel: Not at this time. The children ages are 6 weeks to 6 years old. Kaminsky: How do you propose getting those children out of that building and then into the street in an emergency? Jarmel: we spoke with Retro and adjacent neighbors and also discussed busing. They would not get a license from New Jersey if they didn't have a place to go. They would have to have an agreement in place and demonstrate to the State that they have an agreement so they can get their license, this can also be a condition for the board. Fink: On the easterly side a gate could be put in there to get the children to the diner if needed? Jarmel: yes.

John McDonough, Licensed Professional Planner. I reviewed Mr. O'Brien's report so I have a full picture of the application. Marked as A-7 are three pages of photo's. First page of this exhibit is an aerial photo of current conditions, just under 40,000 sq. ft. which is just short for a townhouse development and for a single family home 7,500 sq. ft. It was previously power equipment, surrounding land use is predominantly commercial on three sides. Page 2 of this exhibit are four pictures of the existing site. Pages 3; pictures 5,6 and 7 shows the commercial uses in the area, picture number 8 shows a residential home. The building is two story, 10,994 sq. ft. with 22 staff members on weekdays and 160-180 children. Forty parking spaces in front and play area in accordance with state compliance. Referring to Mr. O'Brien's report dated February 18, 2016. The applicant is here for a use variance in the RTH Zone where residential homes and townhomes are permitted, a child care facility is not permitted in the RTH Zone. *Mr. McDonough discussed variances associated with this application.* Minimum lot area required is 40,000 sq. ft., existing is 38,972 sq. ft. He stated that the building was shifted to avoid the side yard setback requirement, it is now 20' on West side. Total side yards required are 20', 14' proposed overall. Impervious coverage permitted is 50%, proposed 60.7%. Open space required is 26%, proposed 22.8%; as a result, for additional parking. *Mr. McDonough discussed in detail the inherently beneficial uses using the Sica balancing test and the four step balancing test and gave reasons why this use would be beneficial. Master Plan was also discussed.* This particular site is attractive to this user, there are 21,000 children ages 0-4 years old within a 5-mile radius. Household income of $120,000 within a mile and three-mile radius as well. A KinderCare facility as mentioned in a prior meeting may be going out and this will fill the demand, other child care facilities operate from home in the area with fewer children. Marked as Exhibit A-8, Titled R-TH Zone Composition on Westfield Avenue. *Mr. McDonough and Mr. O'Connor discussed lots 71,72 and 73 from the exhibit.* Mr. McDonough stated that on the existing lot eight townhomes would be permitted. On lots 71 & 72 combined, approximately 12-16 townhomes would be permitted.

RECESS

Board member Ed Ruth brought a motion to take a 5-minute recess. Motion was seconded by John Moricz and carried unanimously by voice vote.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade and John Caliguire

Also Present: Richard O'Connor; Township Engineer, Kevin O'Brien; Township Planner, Gordon Meth; Township Traffic Consultant, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

NEW BUSINESS CONTINUED

Charles Olivo, Applicants Traffic Expert. Mr. Olivo referred to the revised plan marked as A-6. He stated that the parking capacity has now increased to 40 which added five more parking spaces. Although I believe the previous parking plan was adequate. I did speak with Lieutenant Pollock and he did say that the restriction for a left hand turn at peak hours was a step in the right direction. *Discussed was moving the driveway, site lines and site distance.* We design plans to be safe, design plans to be efficient and then the enforcement comes into play. I think we did the best that we can do here to design a plan that works.

Spialter: did you review Mr. Meth's report? Yes, I am at odds that his report says 41 spaces are required here. Forty spaces are more than adequate. Kaminsky: Is applicant doing a right turn in and right turn out? Fink: Russ has already been sworn. He is the principle of the applicant. You heard the Board's question, are you willing to make a right turn in and out all day? Russ: yes. Fink: and you consulted with Mr. Jarmel who worked on other facilities likes these? Russ: yes. *A lengthy discussion took place regarding turning movements between Mr. Olivo and Board Members.* Moricz: How many cars would be making a left hand turn during peak hours: Olivo: We found that during peaks hours 70 vehicles would be making a left turn in and out, 35 + 35. Tierney: have you considered a smaller facility? Fink: I believe this is built to their standard but they do have different sized facilities around. Mr. Jarmel: I would say no; I believe 10,000 is their match number for them. *Discussion on size of facility.* Jarmel: If you reduce the size of the building the occupancy is reduced, the State takes the same approach. Fink: it's not a licensing issue. *Mr. Olivo discussed trip generation stating that it will not have a significant impact.* Mr. Meth, Clark Traffic Consultant: with trip generation there is an impact to operation at Westfield and Raritan Road. It's really that turn from Westfield Avenue onto Old Raritan Road that's the problem, the applicant increases it by 5-6%, however, what the applicant has agreed to, traffic is going to find its path, the turn restriction must be enforced. There still could be an impact to left turns at Westfield and Raritan Road by the extra traffic coming up the road. The site in question generates 140-160 peak hour trips and then you divide that by 20. Six

townhomes on this site would generate 5-6 trips. ***Mr. Meth discussed traffic signs and trip generation continued to be discussed. Mr. Fink gave his closing commentary.***

Statements in Favor: none
Statement Against: Mr. Tom Kowalczyk, 27 Garside Place. I have several concerns. I question the need for this in such close proximity to other child centers such as Featherbed Lane School, KinderCare and Pumpkin Patch. Safety is still a concern. In a building with an emergency; children are now 18' closer and no sidewalks. Traffic is a great concern. I think the restricted turning movements will force traffic onto Garside Place, onto my street. The current zoning is for single family and townhomes and was told by a neighbor that it was done that way as a break to block us from the commercial uses. There's some vacant land, what would that become if the board allows this building to go up. For these reasons I hope the Board denies this application.

John Tierney brought a motion to deny this application. Motion was seconded by Edward Ruth. ***Board members gave their commentary. Vote:*** **Ed Ruth; yes, Krok; yes, Chris Tierney; yes, John Tierney; yes, John Moricz; no, William Helm; no, Steve Kaminsky; no. Application Denied.**

ADJOURNMENT

John Moricz brought a motion to adjourn. Motion was seconded by William Helm and carried unanimously by voice vote. Meeting adjourned at 11:10 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

3/28/16

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, MARCH 28, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:07 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: Chris Tierney and John Caliguire

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the Reorganization meeting and public meeting of February 22, 2016 were reviewed. John Tierney brought a motion to accept the minutes. Motion was seconded by Ed Ruth and carried unanimously by voice vote

NEW BUSINESS

Calendar #6-16, Robert Kowalski, 125 Dorset Drive. Mr. Gregory J. Waga, the applicants architect came forward. He stated that his applicant is requesting an adjournment to the next meeting due to a publication issue.

Calendar#5-16, Nicola & Maryann Gerbino, 53 Sweetbriar Drive. Donald D. Fraser is the attorney representing the applicant. I do have a few witnesses I would like to present tonight.

Mr. Gerbino: we are requesting bulk variances for an addition to this house that my wife and I purchased in July of last year. Living at the house will be my wife, my two boys and myself. Property is now vacant, it needs structural work and is not habitable. My wife and I grew up in Clark and we are currently living with my parents that live in Clark, previously we were living in Cranford. Spialter: when you bought this house did you know it needed variances? No, I knew it had to be renovated. Spialter: Why did you buy this house? Gerbino: Location, property, close to school and parents.

Mr. Dave Dugasz, Licensed Architect in the State of N. J. Mr. Dugasz stated that the existing dwelling is an older type ranch home with attached one-car garage. After going through the needs and wants of the homeowners we decided to enlarge the existing garage, it's irregular shaped and very tight. Behind that will be a mud room area. The idea is to make this an almost similar colonial style home with a 10' addition off that back that would enlarge the kitchen with island and great room. On left side is a suite with den behind it. The upper floor will have a master suite and three additional bedrooms. Height of the house will be at 31', upper roof will be more of a hip roof.

Questions from Board Members: attic space just storage? Yes, also to give the home more of a modern look. The master bedroom on the second floor? Yes. Another bedroom on the first floor? Yes, It's additional space if the in-laws come over to visit; basically an in-law suite. Mr. Fraser: Is it fair to say Mr. Dugasz that if either set of parent's move away, say to Florida or some other retirement area, the design of this project would enable either set the parent's to stay here if they no longer lived in Clark? Yes. What is the purpose of the den? If someone comes to visit they will have that privacy. How much square footage would have to be deleted from this application to meet the 15% lot coverage? Probably a couple hundred square feet. *Referring to Plot & Grading Plan prepared by Fletcher Engineering dated 9/16/15 board members discussed survey of property and side yards. Board determined that this drawing was not accurate. Mr. Dugasz agreed that the addition was not properly indicated.*

Spialter: If in fact you were to reduce the addition from the 19.7% to the 15%; that would have to be carved out from the area on side and rear? Fraser: 600-700 sq. ft. of first floor space. *Discussion continued among members on reducing the lot coverage. Also number of bathrooms were discussed.* Spialter: I think it's clear from the questions Mr. Dugasz. The Gerbino's application says that they looked for ten months and found the perfect home which they put in writing and signed. Just looking at this and seeing to what extent at all can be met with something less intrusive, less variance intensive, those are questions. It's almost a year since they bought this house, they clearly bought it with the intensions of never living in it in its present condition and the pictures attest to that. Dugasz: I know that the existing home does need some repair and the basement needs work. Spialter: have you looked at the pictures attached to the Gerbino's letter? Dugasz: no I did not look at them. Spialter: I believe you should. Fraser: Their requesting from this board a variance to go to 19.7% lot coverage where your ordinance allows 15%. We're not looking to overbuild this lot, we not asking to put a 6,000 sq. ft. monstrosity, that may be permitted by your FAR, were talking about a nice modern house in this area, if you were building a house from scratch, you could build a much bigger house and be fully compliant with this town's ordinances. It goes 19.7% where 15% is allowed and maybe the board will see fit to grant that or maybe not fit to grant it but this is not some wacky thing their trying to do here and their restrained by the fact where the garage is at present and there's not much they can do about it. If you look at what they're proposing for the garage it's not unreasonable. Tierney: have you looked into a smaller structure to meet the code? *Mr. Dugasz discussed another option he looked at but they wouldn't get the great room they wanted. Discussion continued on reducing the floor plan.*

Victor Vinegra, Professional Planner. This is a colored site plan rendering by Mr. Fletcher, I will mark this A-1. When I first looked at this I thought this was a large footprint of this house, I thought how am I going to justify it. Then I looked at the FAR. The FAR in this zone permits 40% of the lot area. The architect plan came up with 30% for the FAR. You would then have a permissible square footing of *6,000* sq. ft. This house is 3,400. What I also looked at was the impervious coverage. Permitted by ordinance is 50%, the architect came up with 32%. The architect could build a much larger second floor and cantilever it over the first floor and that would be permissible and we wouldn't be here. This house is more desirable to its location and more fitting. What would be more attractive? a house that has a larger second story with an interior elevator. What I heard today was that this is going to be long term and possibly have an in-law in there. This lot could be developed. We have a variance on the side, could we have made it work, probably but then you couldn't save any of the walls, the walls of the garage would have to be blown out, plumbing wouldn't be saved, moving that garage wall would probably make this a knockdown. *Mr. Vinegra discussed positive and negative criteria, the zone plan and pointed out other large homes in the neighborhood. Covered front porch was discussed.*

No statements from public in favor or against application
Mr. Fraser gave his closing comments.

Chairman Kaminsky requested that if a motion is made to approve, no second kitchen be added as a condition.

Thomas Meade brought a motion to approve Calendar #6-16 with condition. Motion was seconded by William Helm. Board members gave their commentary. *Vote:* Ruth; no. Krok; yes. Meade; yes. J. Tierney; no. Moricz; yes. Helm; yes. Kaminsky; no. *Application Granted.*

RESOLUTIONS

Calendar #1-16, Reorganization Meeting. Attorney Spialter read onto the record Resolution 1-R-16. Edward Ruth brought a motion to accept the resolution as read. Motion was seconded by John Moricz and carried unanimously by voice vote.

Calendar #2-16, Annual Report. Attorney Spialter read onto the record Resolution 2-R-16. John Moricz brought a motion to accept the resolution as read. Motion was seconded by John Tierney and carried unanimously by voice vote.

Calendar #6-15, V&R Developers, 1132 Westfield Avenue. Board Attorney Spialter read onto the record Resolution 4-R-16. John Tierney brought a motion to accept the resolution of denial as read. Motion was seconded by Douglas Krok. *Vote:* Ruth; yes, Krok; yes. J. Tierney; yes.

Calendar #4-14, Iselin Realty, LLC, 1208 Central Avenue. Attorney Spialter read onto the record Resolution 3A-R-16. John Tierney brought a motion to accept the amended resolution as read. Motion was seconded by Ed Ruth. *Vote in favor:* Ruth, Krok, John Tierney, Moricz & William Helm

PRIVATE SESSION

Doug Krok brought a motion to go into private session to discuss litigation. Motion was seconded by Edward Ruth and carried unanimously by voice vote.

Ed Ruth brought a motion to come out of private session. Motion was seconded by John Tierney and carried unanimously by voice vote. All members still present.

ADJOURNMENT

Ed Ruth brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimously by voice vote. Meeting adjourned at 11:33 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

April 14, 2016

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

THURSDAY, APRIL 14, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:10 P.M. BY Chairman Steve Kaminsky. He asked all present to participate in a flag salute and a moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, John Moricz, John Tierney, John Caliguire, William Helm and Steve Kaminsky

Members Absent: Thomas Meade

Also Present: Alternate Board Member Chris Tierney. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the March 28, 2016 public meeting were reviewed. Edward Ruth brought a motion to accept the minutes. Motion was seconded by John Tierney and carried unanimously by voice vote

NEW BUSINESS

Calendar #6-16. Mr. & Mrs. Robert Kowalski, 125 Dorset Drive. Mr. Gregory J. Waga, the applicants architect came forward with Mrs. Kowalski and both were sworn in. Mr. Waga stated that his applicant wishes to construct a one story 2-car attached garage due to the current status of Mr. Kowalski's health which requires a handicap accessible master suite with bath on the first level, the garage would be one story; 460 sq. and tie in nicely with the existing dwelling. The current 2-car attached garage which comes off Dorset Drive would be transferred over to the new master suite with bath. The proposed garage would give easy access to the existing dwelling and the garage will be in line with the existing façade of the home. *Side yard & total side yard variances was discussed.* Mr. Waga stated that they will not be adding any impervious coverage. Board member Mr. Ruth asked about the existing shed. Mr. Waga stated that they are requesting variances for it because it's a pre-existing non-conforming structure.

No statements from the public in favor or against this application.

Mr. Waga: We are hoping that we find a positive outcome with this meeting tonight. The Kowalski's have raised their family there and we are trying to ease their situation for them from an internal layout and circulation point of view.

Douglas Krok brought a motion to approve Calendar #6-16. Motion was seconded by John Caliguire. *Vote: All Ayes.*

Calendar#4-15, Antonio & Maria Ribeiro, 32 Stemmer Drive, Clark, N. J. Mr. Daniel Bernstein is the attorney representing the applicant. Mr. Bernstein stated that this is the second anniversary to when the Ribeiro's made application to this Board to expand a one-story with no second floor living space and the application was granted. Then they came back a second time but notice was not proper and then they came back a third time with John Phillips their attorney for the use of the second floor as living space and the application was denied, we then filed an appeal. Howard and I went to Court and basically we are looking for a settlement. We now have a smaller second floor and agreed to take out the dormers. *Mrs. Ribeiro was sworn in.* She stated that she currently lives in Newark. Mr. Spialter asked her questions regarding her newspaper notice. Mr. Spialter stated that proof of publication and notices were in order.

Mr. Bernstein: Mrs. Ribeiro; you applied to this Board in 2014 to expand solely the first floor and was it at that time that two bedrooms were sufficient for your needs. Ribeiro: yes, but once the construction started we noticed the rooms were too small and not sufficient room for my girls. Bernstein: There were plans submitted for construction and zoning with a change to show a second floor and you were not able to proceed with construction? Correct. Bernstein: The second application was filed with the board without proper notice and the third application was filed with the board and was denied for two rooms on the second floor, is that correct? Yes. Bernstein: at this point your asking for a bedroom on the second floor and that would be used by your daughters, and you have triplets? Yes. So that's the rational for the size of the room? Yes. There will be no exterior windows on the rear of the property; correct? Yes. You are asking the board to approve the reconfigured plans; correct? Yes. Spialter; I'm going to assume that there's no kitchen on the second floor? Ribeiro: no kitchen.

Mr. George Sincox: *Discussion on one & half story structure or two story.* Mr. Sincox stated that it is a 2-story structure, it's a building code issue, by building code it's a 2-story. Spialter: For the record is it your understanding; your clients understanding, that what is being proposed to the board from a sidewall configuration, front wall, rear wall, roof line, roof structure is identical to what was submitted to the board and approved in 2014. The only change is the chimney at the

rear of the property, correct? Sincox: Yes, and I believe there are some skylights as well. *Egress window was discussed.*

Gabriel Landerverde, assistant to Mr. Sincox. Mr. Landerverde answered questions pertaining to size of windows. *He described in detail the layout of the first and second stories.* Plans that were submitted to the Board were marked as A-1. He stated that the second floor will contain a bedroom, bath, walk in closet and sitting room. *Mr. Sincox discussed the zone plan, zoning ordinance and master plan.*

Statements in Favor: Florence Shukis, 26 Stemmer Drive. I would love to have these people as neighbors, I live right next door and this house is beautiful.

Statements Against: none.

Mr. Bernstein: I believe this proposal is reasonable. Basically the exterior of the house is staying the same, except for the chimney. It will be a 3-bedroom house instead of two bedrooms. I can't think of any new homes today that are two bedrooms. The Ribeiro's should have come back to the board. The fact that the exterior was the same except for the dormers doesn't excuse the situation. What we are looking for is reasonable and consistent with your ordinance, consistent with land use law and ask that our proposal be approved either as a modification of prior approval or settlement of litigation.

Ed Ruth brought a motion to approve Calendar #4-15 as a settlement of litigation. Motion was seconded by Douglas Krok. Mr. Ruth amended his motion with the following conditions: existing dormers to be removed, walk-in-closet on second floor cannot be converted to bedroom and no kitchen use on second floor. Mr. Krok seconded the amended motion with conditions. Commentary: all members agreed with the settlement. *Vote: All Ayes; Application Granted.*

Chairman Kaminsky questioned if the applicant wanted to waive the 45-day waiting period. Mr. Bernstein asked for a few minutes to discuss this with his client.

RECESS

Ed Ruth brought a motion to take a 5-minute recess. Motion was seconded by John Tierney and carried unanimously by voice vote.

ROLL CALL

Members Present: Ed Ruth, Douglas Krok, John Moricz, John Tierney, John Caliguire, William Helm and Steve Kaminsky

Members Absent: Thomas Meade

Also Present: Alternate Member Chris Tierney, Board Attorney Howard Spialter and Board Secretary Janet Gentry

NEW BUSINESS CONTINUED

Mr. Bernstein stated that his clients do want to start as soon as possible. Mr. Spialter stated that he would incorporate it as a condition of resolution

RESOLUTIONS

Calendar #5-16, Nicola & Maryann Gerbino, 53 Sweetbriar Drive. Attorney Spialter read onto the record Resolution 5-R-16. John Moricz brought a motion to accept the resolution as read. Motion was seconded by William Helm. *Vote: Douglas Krok, John Moricz and William Helm.*

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimously by voice vote. Meeting adjourned at 9:35 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

May 23, 2016

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, MAY 23, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:23 P.M. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and a moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Caliguire, John Moricz and Steve Kaminsky

Members Absent: Thomas Meade and William Helm

Also Present: Dave Testa; Acting Engineer for Richard O'Connor. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the April 14, 2016 public meeting were reviewed. Edward Ruth brought a motion to accept the minutes. Motion was seconded by John Tierney and carried unanimously by voice vote

NEW BUSINESS

Calendar #7-16, KCSM, 61 School St, 1199-1205 Raritan Road, 1207 Raritan Rd, 1076 & 1085 Central Avenue. Mr. Joseph A. Paparo is the Attorney representing the Applicant.

Mr. Edward Dec, testifying as a Professional Land Surveyor and Civil Engineer. Mr. Dec stated that this application is for a sub-division and site plan of block 69, lots 12.01, 18, 20, 22 and 25. Lot 16 is Goodyear and not associated with this application. He referred to the revised site plan that was marked as Exhibit A-1 dated April 19, 2016 and previously submitted to the Board. He Stated that this application is for a minor subdivision with variances. A subdivision to a residential lot, Lot 25, 61 School Street in an R-100 Zone that is 14,936 square feet in area and the applicant is proposing to subdivide this property to create proposed Lot 25.01.

The single family home would be 5,150 sq. ft. in area and the remainder would be 9,786.36 sq. ft. that would provide additional parking for the existing restaurants and commercial uses on the properties. Lot area required in a R-100 zone is 10,000 sq. ft. by ordinance. Commercial parking is not permitted in a residential zone. Applicant is proposing to maintain the existing home at 61 School Street and subdivide the property to create a new rear lot for the construction of a 23 space parking lot to be utilized in connection with the adjacent commercial businesses. Number of parking spaces in demand by ordinance are 287 spaces, existing conditions are 189 stalls. Mr. Spialter: with the proposed subdivision; does it create a land lock in anyway? Dec: no. Mr. Dec stated that main entrance ways to the commercial portions are at Molly Maguire's, Tarantellas and White Diamond. Other uses on the property are Sign Source; 1st floor. Personal Service; 2nd floor and an office on 2nd floor, all on lot 12.01. ***Mr. Dec discussed variances associated with this application.*** **We are proposing screening and buffering to the proposed new lot. Lot 24.01, 63 School Street was a very similar application to what we are proposing now.** ***Storm water detention system was discussed. Mr. Dec addressed Mr. O'Connor's Technical Review report dated April 29, 2016. Parking and handicap parking was discussed.*** **Spialter: In regard to item 2-C on Mr. O'Connor's letter. Is this for this application or a future application? Paparo: Since lot 25 is being reduced in size, the owner cannot come back to this board for a variance or hardship because it was created with this application. We had a similar application 2010 with the same condition. Spialter: is it fair to say that your client has no problem with this condition should the board grant this application. Paparo: absolutely.**

A discussion took place between Mr. Spialter, Mr. Paparo and the new home owner of 61 School Street, Anna Henina. Mr. Spialter requested a letter from Mr. Perotta; her closing attorney, that he and his client are aware of the conditions of approval regarding this subdivision. Spialter: The Chairman also asked for something from the Mortgage Company. Mrs. Panena stated that the application was signed by her and her husband as owners of the property. ***Several questions were asked to the owner from Mr. Spialter.*** **Spialter: I'm trying to avoid any misunderstanding in the future.** ***Lighting and fencing was discussed. Owner of properties were also discussed.***

John McDonough, Professional Planner in New Jersey and Licensed Landscape Architect in New Jersey. Marked as Exhibit A-2 is a 4-page exhibit. First two pages are maps, last two pages are photo's. Mr. McDonough referred to A-2 stating that this is a tax map that represents the site and the surrounding parcels. We outlined the subject property. We are looking at an irregular shaped piece of property, 2.75 acres in size that have frontage on Central Avenue, School Street and Raritan Road. ***Mr. McDonough explained what the current uses are for each lot stating that lot 21 should be regarded as an out parcel on this exhibit.*** **Lot 24.01 regarded as an out parcel was subdivided off of lot 22, very similar to what the applicant is doing here for additional parking. There are only three single family homes that are concentrated on School Street. We are proposing to continue that lot line along the residential homes on School St. Lot #6 are the Lexington Blvd Apartments. School Street is generally residential but mixed residential as we transition away from the**

subject property. It's clear that this is a copy-cat of the land use of residential homes on School Street, Lot 26 & 24.01. Rear portion of lot 25 will be merged with lot 22. Page two of this exhibit is an aerial photo of the subject site and surrounding properties. What you see is the physical characteristics of the site. The essence of this application is not only to maintain and continue the lot line that has been established on School Street but also to increase the parking supply at Molly Maguire's restaurant which is not being expanded, not adding any more building mass or additional seats. Page 3 of the exhibit has four pictures of Molly Maguire's restaurant. Page 4 of the exhibit are three pictures of the Molly Maguire's parking lot. Picture #8 on page 4 is a view of the subject dwelling on School Street. Referring to Page four, picture #6, proposed are 55 plantings along that perimeter of the property. Tree's shown on the other side of that fence will remain. Referring to page 4, picture 8, if the subdivision goes through; her backyard will essentially be the same of those other houses. There will be no visible change to what you see in this photo to the home on School Street. *Mr. McDonough discussed positive and negative criteria and the Master Plan. He* also *discussed variances associated with this application.* From a planning standpoint I believe this is a good application. The applicant has provided a nice balance of additional parking on the commercial side and additional buffering on the residential side. In that regard I believe the statutory criteria are met for both the D and C variance relief that the applicant is requesting.

Mr. Paparo stated that lot 11 as shown on Exhibit A-2 is also not included in this application.

Questions from the public: none

Statements in Favor of Application: John Mc Partlan, 1367 Cooper Road, Scotch Plains. I'm the owner of Molly Maguire's Irish Pub & Restaurant. We've been in Town now for 15 years. We believe we run a really good place. I think people in Town enjoy it. We are pretty reasonable people. If there are any issues from someone in the neighborhood, we address them, we take care of business. Just basically what I wanted to say.

Statements Against from the Public: Michael Kokuluk, 63 School Street. Basically I'm here about load noises. Car horns, parking lights, people blasting their radios, we can't open our windows at nights. Police called several times. We witnessed a drug deal take place during the day. Snow plows damaged my fence three years in a row, Stanley came over to take a look, it still damaged. All through the house at night bands and karaoke. Bar closes and they still party. I hear about trees and landscape, that does not provide a noise barrier. I'm concerned about property values decreasing.

Ilene Kopec, 63 School St. I've been living there for the last six years. I live with my fiancé and what he said is true. About the fence I have a police record. Sometimes I call the police, sometimes they show up sometimes they don't. I have signatures by fifteen people. Spialter: If you have a list of 15 people, they have that opportunity to be here. But that itself cannot be considered by the board. That would be hearsay. Spialter: You heard Mr. Mc Partlan, did you ever present your issue about your fence to him? I spoke to the other owner, I think his name is Joe, he works during the day. He acknowledged that the snow plow did it. Police were called and the fence on Molly's side not fixed. Sometimes they leave their windows and doors open, we can actually hear them singing karaoke. We don't open our windows due to the noise. The new homeowner has a minor, we don't we have just a dog. When I bought this house I thought there would be an ordinance. Stanley if called will step up to the plate, but the fence is still damaged. I will be surrounded by parking lots.

This application will be adjourned to July 25, 2016 public meeting.

Spialter: Ms. Kopec: if you believe that you think someone that is impacted by this and has a voice that can be heard, July 25th is the night.

RECESS

Douglas Krok brought a motion to take a 5-minute recess. Motion was seconded by John Tierney and carried unanimously by voice vote.

Douglas Krok brought a motion to come out of recess. Motion was seconded by John Caliguire.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Caliguire, John Moricz and Steve Kaminsky

Members Absent: Thomas Meade and William Helm

Also Present: Dave Testa, Acting Engineer for Richard O'Connor. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

RESOLUTIONS

Calendar #6-16, Mr. & Mrs. Robert Kowalski, 125 Dorset Drive. Board Attorney Spialter read onto the record Resolution 6-R-16. John Moricz brought a motion to accept the resolution as read. Motion was seconded by Edward Ruth. *Vote:* Ruth; yes, Krok; yes, J. Tierney; yes, Caliguire; yes; Moricz; yes, Kaminsky; yes.

Calendar #4-15, Antonio & Maria Ribeiro, 32 Stemmer Drive. Attorney Spialter read onto the record Resolution 7-R-16. John Tierney brought a motion to

accept the resolution as read. Motion was seconded by John Caliguire. ***Vote in favor:*** **Ruth, Krok, John Tierney, Caliguire, Moricz and Kaminsky**

PRIVATE SESSION

Edward Ruth brought a motion to go into private session to discuss litigation. Motion was seconded by John Tierney and carried unanimously by voice vote.

John Tierney brought a motion to come out of private session. Motion was seconded by John Tierney and carried unanimously by voice vote. All members still present.

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Caliguire and carried unanimously by voice vote. Meeting adjourned at 10:55 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

June 27, 2016

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JUNE 27, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:05 P.M. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and a moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Douglas Krok, Chris Tierney, John Tierney, John Caliguire, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade and Edward Ruth

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the May 23, 2016 public meeting were reviewed. John Tierney brought a motion to accept the minutes. Motion was seconded by John Moricz and carried unanimously by voice vote

NEW BUSINESS

Calendar #8-16, David Amorin, 429 Willow Way. David and Susan Amorin ware both sworn in. Mr. Amorin stated that he currently lives in Rahway. But they grew up here in Clark. The house on Willow Way is currently a ranch style home with partial dormer on rear, it's an L-shaped house and pretty much would like to square it off. Sides and front setbacks will remain the same. We would like to build our new dream home, an oversized ranch home, that's why we're here. Current house would be taken down and building new Ranch home. We always liked a ranch, everything on one floor. Spoke with our neighbors and they were happy that it's a one story and we would not be overlooking their pool. Mr. Spialter: you have children? Mr. Amorin: yes, two. Amorin: There is an office on the plans that can be used as another bedroom if needed or if one of our parents come to stay. *Mr. Amorin*

briefly discussed the floor plan stating that the kitchen and great room will have a higher roof. Mr. Spialter spoke with Mr. Amorin regarding the attic. He stated that this board had approved a variance for a ranch home and they did something different which caused litigation. **Spialter: Just so your aware of it, if approved, the resolution will state that you will not have a second floor, second kitchen or anything else that you did not ask for.**

Mr. Christopher Nusser came forward to testify as the Applicant's Licensed Planner & Civil Engineer. Marked as Exhibit A-1 is a site plan, drawings 1 & 2. This is a 20,000 sq. ft. lot in an R-150 Zone. The required lot size in this zone is 15, 000 sq. ft. The proposed lot coverage permitted is 15%, proposed is a 19% lot coverage. Permitted on this lot with a 15% lot coverage would be a 3,000 sq. ft. house, we are proposing a 3,800 sq. ft. house. The sides, rear, impervious coverage and F.A.R. all conform. With the permitted 40% F.A.R. we could build a much larger home but it would be a two-story instead of a one-story home so I think the neighbors would benefit from this. Obviously we're here for a variance, a hardship is not seen. There are other ranch homes in the area so this will conform. A home on Laurel lane for example is a ranch home with a lot coverage of 19.8% so we are not at all going to be one of the bigger homes. We have a plan drawn up regarding the water, that your Engineer reviewed, so water will not impact the neighbors. Again, everything else conforms, except for the lot coverage on a one-story home.

Board members and Mr. Nusser discussed proposed grading levels. Reviewing the elevations, board members agreed that it appears a height variance may be required due to the roof ridge.

Spialter: I'm just handing out suggestions. If the board is in favor, revised plans can be submitted or an alternative is to seek a variance for the roof height. *Mr. Nusser requested a few minutes to consult with his clients.*

RECESS

Mr. John Tierney brought a motion to take a 5-minute recess. Motion was seconded by John Caliguire and carried unanimously by voice vote.

ROLL CALL

Members Present: Douglas Krok, Chris Tierney, John Tierney, John Caliguire, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade and Edward Ruth

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

NEW BUSINESS CONTINUED

Spialter: While the applicant and engineer were discussing the matter; a definition was found to pin-point the height of a building and for the record; 195-111 the definition was found in our code book for height. It talks about measurements of existing grade. Even if the Amorin's wanted to go forward tonight with the height, it compounds the problem. There is no dimension for the board to consider and what that height variance would be. It appears that the Amorin's don't have much of a choice but to ask the board to adjourn this matter and re-revisit with their engineer and get their numbers in order. Also based upon the request from the Chair, re-notice and republish so everyone is one the same page.

Mr. Nusser: We are requesting the variance, we will re-notice and get the actual height.

Spialter: if you get the notices out and have everything ready, our next meeting is on July 25th.

PRIVATE SESSION

John Tierney brought a motion to go into private session to discuss litigation. Motion was seconded by John Moricz and carried unanimously by voice vote.

ROLL CALL

Members Present: Douglas Krok, Chris Tierney, John Tierney, John Caliguire, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade and Edward Ruth

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimously by voice vote. Meeting adjourned at 9:20 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

July 25, 2016

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JULY 25, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:08 P.M. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and a moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade and John Caliguire

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the June 27, 2016 public meeting were reviewed. John Tierney brought a motion to accept the minutes. Motion was seconded by John Moricz and carried unanimously by voice vote

NEW BUSINESS

Calendar #8-16, David Amorin, 429 Willow Way. Spialter: proof of notice and publication are all in order. At our last meeting we had a height issue. Our Board member Ed Ruth was not present during testimony and is not up to date on transcripts. Would you like to proceed or wait until next meeting when Mr. Ruth has listened to tapes or possibly summarize from our last meeting, I will leave that up to you.

Mr. Christopher Nusser; Applicant's Planner and Civil Engineer. Mr. Nusser stated that he would like to summarize testimony from our last meeting. I do have a question for the board. After the last meeting and when we revised the site plan,

under your building height definition, as I interpret that; measuring to the peak of the roof I come up with 31.8" which complies with the ordinance but obviously I would like the boards opinion on that. Spialter: The mean height definition could mean so many things depending on how its applied. I'm not speaking for the board but you could always shoot for the worse case scenario 42.3" and if the board has concerns with that we can come back to getting the mean height measurement resolved. Previously marked as A-1 was original site plan dated 6/27/16 by E&LP. Marked as Exhibit A-2 is the revised site plan dated 7/25/16 by E&LP. Marked as Exhibit A-3 are front elevations dated 5/11/16 by Andrew Podberezniak, Architect and Marked as Exhibit A-4 is a revised front elevation plan dated 7/26/16 by Andrew Podberezniak, Architect. *Referring to the exhibits, Mr. Nusser continued to discuss the height of the structure.*

Mr. Nusser: This application is for a new one story ranch home with a condition of no second story. Lot size is 20,000 sq. ft. Required in the R-150 is 15,000 sq. ft. This application requires a lot coverage variance for 19%, permitted in the zone is 15%. Floor Area Ratio is at 19 % where 40 % is permitted, less than half of what is permitted. All other conditions such as impervious, front, rear and side setbacks all conform to current codes. Water run-off will be improved and onto the street. *For the benefit of our absentee board member Ed Ruth, Mr. Nusser reiterated testimony given from the last meeting on June 27, 2016.*As discussed earlier and at the last meeting was the height issue. We set it down lower to the ground and dropped it 2'. From the existing grade to the proposed peak of the roof it will be at 39.4". Looking at A-4, prepared by the Architect, garage floor elevation is at 31.8". Obviously, if it's the board's interpretation that it's at 42.4" than we need to seek a variance for the height. The peak sets back from the road so it appears shorter than it is. We feel that the benefits here would out- weight any detriment. This a very attractive house and it will not have any encroachment on the neighbors. We don't see how any of this is negative. *One story ranch on Laurel Lane with 19.8% lot coverage was discussed. Several questions regarding the height was discussed with Mr. Nusser.*

Kaminsky: what is the height of the existing structure? Nusser: This proposal will be a little less than 9' higher. Kaminsky: What I have a problem with; is that this lot is 1/3 larger than what the requirements are in the area, this is a large house. Nusser: it's a one-story house that has a more open floor plan to it. From the angle that you look at it you could build this house at 15% instead of 19% and it would look the same so there's no real impact on the neighbors by having this house at 19%. Kaminsky: can you build a house here at 15%? Yes, you could and still maintain the same view from the front of this property. From what's existing now to what is proposed to what we want to build is that we're digging down in the front yard for a new driveway and it's going to be the same width. It's the same as the original house but were boxing out that L. So from the street it won't look like a big over-sized house in the neighborhood at all. The roof will be a little higher but it's in the middle and it won't look like a monstrosity. Ruth: As we discussed about Mr. Khoda; that you will be lowering it 3'so the height would be 39' not 42', is that correct? Spialter: From the visual perspective you can look at it but from the actu

conventional aspect based upon the ordinance that was read onto record that it is 42'4". It's just that because it's being sunk further into the ground the visual impact comparable to the neighbor's is what their discussing. It doesn't change the variance number they would be seeking from the board. Spialter: could you sink the house further? Nusser: Looking at the plan, we can bring it down another six inches. Spialter: drainage, is that above ground drainage or under-ground conduit? ***Drainage was discussed; runoff would come out to Willow Way.***

Question or Statements from the Public: none

John Tierney brought a motion to approve Calendar # 8-16. Motion was seconded by William Helm. ***Board members gave their commentary.*** **John Tierney amended his motion to include a lowering of the grade to 101.5 peak, restrictions for a second floor and no second kitchen. Amended motion seconded by Mr. Helm.** ***Vote: Ruth: yes, Krok: no. C. Tierney: yes. J. Tierney: yes. Moricz: yes. Helm: yes. Kaminsky: no*** **Application Granted.**

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Chris Tierney and carried unanimously by voice vote. Meeting adjourned at 9:30 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

August 8, 2016

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, AUGUST 8, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:04 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Chris Tierney, Thomas Meade, John Tierney, John Moricz, William Helm and Steve Kaminsky.

Members Absent: Douglas Krok

Also Present: Board Member John Caliguire. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the July 25, 2016 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Moricz and carried unanimously by voice vote.

RESOLUTION

Calendar #8-16, David & Susan Amorin, 429 Willow Way. Attorney Spialter read onto the record Resolution 8-R-16. John Moricz brought a motion to accept the resolution as read. Motion was seconded by John Tierney. *Vote in Favor:* Ed Ruth, John Tierney, Chris Tierney, John Moricz and William Helm

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Ed Ruth and carried unanimously by voice vote. Meeting adjourned at 8:35 p.m.

Taken and Transcribed by:

Janet Gentry
Janet Gentry-Secretary

Sept 26, 2016
Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, SEPTEMBER 26, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and a moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Moricz, John Caliguire, Steve Kaminsky

Members Absent: Thomas Meade, William Helm and John Tierney

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the August 8, 2016 public meeting were reviewed. Edward Ruth brought a motion to accept the minutes. Motion was seconded by John Moricz and carried unanimously by voice vote

NEW BUSINESS

Calendar #9-16, 727 Raritan Road Condominium Association, Inc. Mr. Stanley Fink is the attorney representing the applicant. Mr. Fink stated that 727 Raritan Road is an office condominium. They sell off units within the building. Each of the suites is owned individually. The site plan for this building was approved years ago but it was in the last few years that they were sold off as individual units. The reason we are here is that the zone was changed. It is now RTH; so we cannot have a sign in a residential townhouse zone. As far as I know, this building has never had a directional sign. We are asking the Board to approve this sign and be just like every other office building in Town.

Karen Quirk. Ms. Quirk stated that she is the property manager. She maintains property, does accounting of bills. Each of the owners contribute to

maintain the building. Each is taxed as a stand-alone building, one of eight units are rented and one owner owns three units. *Ms. Quirk discussed the businesses that are currently occupying the building.* They just became an association within the year. There are professional businesses in this building and their clients need to know where they are located. There is a sign there now that just says 727 Raritan Road.

Mr. Cornelius Grondin, 150 Thomas Drive asked about lighting of the building, Mr. Spialter stated that this application is for a sign only. Mr. Grondin then asked about the lighting of the sign, Ms. Quirk stated that it would be illuminated internally from 7p.m. to 10 p.m.

Mr. John Pavelko, 61 White Place. Is this sign proposed for just this portion of the building? Ms. Quirk: Yes, free standing, just to the front yard of the building on Raritan Road.

Mr. David Preucil, President of Sign Source in Clark. Referring to the Site Plan Mr. Preucil stated that the proposed sign is a double sided directory sign. Sign is 6' in length, ten inches deep and internally illuminated. The sign is 7-8' from the front entrance and will be located 5' back from the property line. *Site Plan was marked as Exhibit A-1. Marked as Exhibit A-2 is a photograph of the front of building depicting the proposed sign. Marked as Exhibit A-3 is a drawing of the sign.* Referring to A-3; Mr. Preucil stated that the sign itself has a white translucent face containing the present occupancy. It will be 4' high by 6' wide and standing on a 2' pedestal so the total dimensions will be 6' by 6'. Pedestal will be illuminated with the street number. *Sign panels were discussed and sign logo's.* Mr. Preucil stated that the location of the sign will not interfere with line of site.

Dr. Szabella came forward as a witness. He is a dentist that occupies Suite 102. He stated that he has been established there for 4 ½ years now. When the traffic backs up along Raritan Road many patients pass the building. The 727 Raritan Road sign gets blocked by traffic, they pass the building and have to circle around. He stated that two recent owners in the building have had a difficult time as well.

Statements in favor from the Public: none
Statements against from the Public: none

Mr. Fink: In summary, this sign is being proposed for a professional building. Site plan was approved for the building initially. Lighting of sign will not interfere with anybody. The sign is not over-whelming in size and it is certainly a need, if the zone was not changed we wouldn't be here. I would appreciate approval of the sign as proposed.

Douglas Krok brought a motion to approve Calendar #9-16. Motion was seconded by John Caliguire. ***Vote: All Ayes***

ADJOURNMENT

Doug Krok brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimously by voice vote. Meeting adjourned at 9:10 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Oct 20, 2016

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, NOVEMBER 28, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and a moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Thomas Meade, Douglas Krok, John Tierney, John Moricz, John Caliguire, Steve Kaminsky

Members Absent: William Helm

Also Present: Alternate Member Chris Tierney, Township Engineer Richard O'Connor and Township Planner; Kevin O'Brien. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the October 20, 2016 public meeting were reviewed. Thomas Meade brought a motion to accept the minutes. Motion was seconded by John Moricz and carried unanimously by voice vote

NEW BUSINESS

Calendar #10-16, Fourth MPPL Realty Co. Inc. 565 Raritan Road. Mr. John Wiley is the attorney representing the applicant. Mr. Spialter stated proof of service and publication was in order.

The COAH implication on this project were discussed and it was determined that the applicant would comply with the Township Development Fee Ordinance in lieu of providing COAH units.

Mr. Nicholas Sottos: Professional Planner. The property is known as 565 Raritan Road, Block 28, lot 9. Marked as Exhibit A-1 is a plan that describes the property. Marked as A-2 is a house recently completed on Stonehenge and is similar

to the proposed homes. The proposal is a sub-division for four single family homes in a RB Zone. One lot will front on Raritan Road, one will front on Charlotte Drive and the other two will front on Benish Court. All lots conform to the R150 zone; however, the subdivision does not conform to the requirements for the RB multi-family zone. The lot consist of 2.132 acres; wetlands consist of 1.49 acres which cannot be disturbed. *Rezoning of the current lot and surrounding lots were discussed. Also mentioned was the approvals given by County/State which were submitted with the application.* What we are asking for is a use variance with bulk variances for a subdivision for the four single family homes. Seventeen garden apartments would be permitted, however, due to the wetlands and the pipeline easement which cuts through this property, you can barely squeeze seven garden apartment units on this property. The proposed density is more consistent with the development that's proposed and the proposal will be more consistent with the eight existing homes on the adjoining lots. *Mr.* Sottos *discussed not putting in sidewalks.* O'Connor: The applicant requested waivers for the sidewalks. The Town has an ordinance in place that in one way or another they will be funding the sidewalks. Sottos: There are no sidewalks anywhere; not on Charlotte or around this entire development. O'Connor: There's an underground detention system on Charlotte Drive and a utility easement on this side of the road which may make installation difficult. Mr. O'Connor also stated that the landscape plan should be a condition of approval. Mr. Sottos also stated that there would be deed restrictions on these properties. Wet land property is part of these lots 9.01, 9.02 and 9.04.

Mr. Sottos discussed grading for this property. Several questions were asked by members during testimony. O'Connor: grading will be a little lower than the adjoining properties. The wetland area cannot be touched at all. Their grading the rest of the property up towards Charlotte Drive. The wetland area is there and will continue to be there, cannot be touched. It's going to require some re-grading of the lots and fill in order to get these houses in. Grading is shown on the plan, they will be disturbing a little more than 43,000 sq. ft. of area. Nick has done a pretty good job of grading this and trying to match what's on Charlotte and Benish. From Charlotte to wetlands it's going to be a straight grade, from Benish to wetlands it's going to be a straight grade. Mr. Tierney asked about retaining walls. Mr. Sottos stated that no retaining walls are proposed. *Mr. O'Connor discussed the slopes and discussion continued for some time on grading.* O'Connor: In my opinion it's an appropriate grade at 5%, fine for a side yard or rear yard. *Board member asked if there would be runoff to the church.* Sottos: There is a detention basin that we built here to supplement the amount of storage, more than what's required, three times as much. What is happening today is going to continue tomorrow at the same rate regarding storm water management. O'Connor: It is an understatement to say that I would not anticipate any additional runoff going to the Church than what you have now. In fact, I think there would be an improvement between the existing system on Charlotte Drive and the new system at the edge of the wetlands. To put four houses in; this applicant had to get approved for storm water management from several entities, Township, County, Soil Conservation and DEP. Mr. O'Connor also mentioned that if required, a fire hydrant would have to be installed.

Mr. Kaminsky asked about the size of the proposed homes. Mr. Sottos stated they would be similar in size to those on Charlotte Drive. *Easement/deed restrictions on the proposed properties were discussed. Mr. Spialter suggested an explanation note on each of the surveys.*

Statements in favor from the Public: none
Statements against from the Public: none

Thomas Meade brought a motion to approve Calendar #10-16. Motion was seconded by John Caliguire. Mr. Meade amended his motion to include the following conditions: Satisfy the COAH obligation. Waive requirements for sidewalks on Charlotte Drive and Benish Court, but sidewalk shall be installed on Raritan Road. Establish a property owner's association, the association shall be responsible to insure maintenance of the wetlands area and storm water facility. Surveys for properties to contain provisions. Landscaping plan to be approved from Mayor's office. Enter into a Developers agreement with the Township. John Caliguire seconded the amended motion. Vote: Ruth; yes. Meade; yes. Krok; Yes. John Tierney; no. Caliguire; yes. Moricz; yes. Kaminsky; yes. *Granted*

ADJOURNMENT

Doug Krok brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimously by voice vote. Meeting adjourned at 9:46 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Dec 12, 2016

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, DECEMBER 12, 2016

A public meeting of the Clark Board of Adjustment was called to order at 8:06 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Thomas Meade, John Caliguire, John Moricz, John Tierney and Steve Kaminsky

Members Absent: Douglas Krok and William Helm

Also Present: Alternate Member Chris Tierney. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the November 28, 2016 public meeting were reviewed. Ed Ruth requested a change in the minutes. Mr. Ruth brought a motion to accept the amended minutes. Motion was seconded by John Caliguire and carried unanimously by voice vote

RESOLUTIONS

Calendar #10-16, Fourth MPPL Realty Co, Inc., 565 Raritan Road. Attorney Spialter read onto the record Resolution 10-R-16. Edward Ruth brought a motion to accept the resolution as read. Motion was seconded by Thomas Meade. *Vote in favor: Ed Ruth, Thomas Meade, John Caliguire, John Moricz, Steve Kaminsky*

DISCUSSIONS

Mr. John Tierney questioned the understanding of the mean height definition. Mr. Spialter said that he should speak with Mr. Khoda or Rich

O'Connor. Mr. Spialter also added that anything a member may want to discuss; bring it to our reorganization meeting.

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Caliguire and carried unanimously. Meeting adjourned at 8:26 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

January 23, 2017

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JANUARY 12, 2015

REORGANIZATION MINUTES

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Janet Gentry who was acting as Coordinator until a Chairman was elected. She asked all present to participate in a flag salute and moment of silence. She stated that this meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Ed Ruth, Douglas Krok, John Tierney, John Caliguire, Steve Kaminsky, William Helm and Chris Tierney

Members Absent: John Moricz and Thomas Meade

Also Present: Howard D. Spialter; Board Attorney and Janet Gentry Board Secretary

OLD BUSINESS

Minutes from the December 8, 2014 public meeting were reviewed. John Tierney brought a motion to accept the minutes. Motion was seconded by John Caliguire and carried unanimously by voice vote.

NEW BUSINESS
APPOINTMENTS

Edward Ruth brought a motion to nominate Steve Kaminsky for Chairman which was seconded by John Caliguire.

Douglas Krok brought a motion to nominate John Tierney for Chairman. No second on the motion.

Vote on motion for Steve Kaminsky as Chairman: *All Ayes*

Steve Kaminsky brought a motion to nominate Ed Ruth for Vice Chairman. Motion was seconded by John Tierney and carried unanimously by voice vote.

Steve Kaminsky brought motion to nominate Howard D. Spialter as Attorney to the Board which was seconded by John Tierney and carried unanimously.

John Caliguire brought a motion to nominate Janet Gentry as Secretary to the Board which was seconded by John Tierney and carried unanimously by voice vote.

Newly re-appointed Chairman Steve Kaminsky took over the meeting at this time.

ANNUAL REPORT

Board Members reviewed term expirations, hearing dates for 2015 and the Annual Report.

John Tierney brought a motion to accept the Annual Report for submission to Council. Motion was seconded by Ed Ruth and carried unanimously by voice vote.

The following Board Members were sworn in by Attorney Spialter since their terms have expired: Douglas Krok, Edward Ruth and William Helm.

CORRESPONDENCE

Received by the Board Secretary was a memo from Edie Merkel. Township Clerk that the Business Administrator and Chief Financial Officer recommend professional services contract to Howard Spialter for the year 2015. Also received was Resolution 15-19 stating that the Union County Local Source and the Star Ledger are designated as the official newspapers of the Township of Clark for the Year 2015.

DISCUSSION

Board member received an update regarding litigation.

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by William Helm and carried unanimously by voice vote. Meeting adjourned at 8:37 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Feb 26, 2015

Dated

CLARK ZONING BOARD OF ADJUSTMENT--- 2015 MEETING DATES

REORGANIZATION, MONDAY, JANUARY 12, 2015 COUNCIL CHAMBERS, 315 WESTFIELD AVENUE, 8 PM

PUBLIC MEETINGS

January 26
February 23 * *changed*
March 23
April 27
May 11
June 22

July 27
August 24
September 28
October 22 * (Thursday)
November 19 *(Thursday)
December 7

Public Meetings will be held in Council Chambers, 315 Westfield Avenue. Meetings will be held on Mondays. *These meetings will be held on days as noted. All meetings will commence at 8:00 p.m. and end at 11:00 p.m.

****February 23rd. meeting has been re-scheduled to Thursday, February 26th.***

MEMORANDUM

TO: MAYOR, TOWNSHIP COUNCIL AND PLANNING BOARD OF THE TOWNSHIP OF CLARK

FROM: ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF CLARK

RE: ANNUAL REPORT PURSUANT TO N.J.S.A. 40:55d-70.1

DATE: JANUARY 12, 2015

INTRODUCTION:

The Municipal Land Use Law, N.J.S.A. 40:55D-70.1, et seq., Provides, in pertinent part, as follows:

> The board of adjustment shall at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The board of adjustment shall send copies of the report and resolution to the governing body and planning board.
>
> N.J.S.A. 40:55d-70.1.

This report is made pursuant to the aforesaid statute.

REPORT FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2014:

The following applications were made to the Zoning Of Adjustment of the Township of Clark, New Jersey ("Board") in 2014 for variances seeking relief from the Revised General Ordinances of the Township of Clark, New Jersey:

APPLICANTS	VARIANCES
Wireless EDGE Towers & New Cingular Wireless PCS,LLC 360 Central Ave DISTRICT CI	Site Plan approval with Bulk Variances Purpose: Construction of a wireless telecommunications facility consisting of a 130' high monopole and new equipment shelter, generator & fencing *Granted*
Antonio & Maria Ribeiro 32 Stemmer Drive DISTRICT: R-150	Lot Coverage, front yard depth (Stemmer Drive) front yard depth (Rand Road) lot area, side minimum width. Purpose: Expansion of an one-story single family dwelling *Granted*
Iselin Realty, LLC 1208 Central Avenue DISTRICT CI	Issue of Abandonment *Granted*: Pre-existing non-conforming use of the subject property has not been abandoned Site plan approval and bulk variances Purpose: for the proposed construction of a gasoline fueling station which a pre-existing non-conforming use exist *Denied*
Nicholas & Fatima Calhoun 68 Hall Drive DISTRICT R-150	Lot coverage, side yard setback and lot area Purpose: Second story addition with wrap around covered porch *Granted*

Kyle & Michele Harrington
31 Meadow Road
DISTRICT R-150

Lot Coverage, side yard setback
Purpose: Family room addition to rear of home
Withdrawn

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

THURSDAY, FEBRUARY 26, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:09 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz and Steve Kaminsky

Members Absent: John Caliguire, William Helm and Chris Tierney

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the January 12, 2015 Reorganization meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Tierney and carried unanimously by voice vote

CORRESPONDENCE

Newspaper publication showing that the meeting scheduled for February 23rd. was re-scheduled for tonight, February 26th. 2015

NEW BUSINESS

Calendar #3-15, Antonio & Maria Ribeiro, 32 Stemmer Drive. George Sincox, Architect & Planner from Westfield was present and was sworn in by Mr. Spialter. Mr. Spialter stated that proof of mailings were all in order.

Mr. Spialter asked Mr. Sincox what a half story is. Mr. Sincox discussed some history to a half story but stated that in terms of building codes, there is no half story, its either a story or it's not. There are really two issues, one is zoning and one is building. From a zoning perspective it's something enclosed by a roof and shoots down over it to make it appear to be less than a full story which it actually is. Spialter: Is it fair to say that in the Clark Ordinances the concept of a half story does not exist? Mr. Sincox: Honesty, I do not know. *Discussion took place regarding height requirements for a half story and attic height.* Mr. Spialter read onto the record section 195-111 of the Township Code which talks about a half story and Mr. Spialter also read resolution 4-R-14 of the Board dated April 10, 2014. *Discussion continued between Mr. Spialter and Mr. Sincox.* Spialter: Are you saying that in realty while the application says one-half story, it's really a full story? Sincox: it's actually a full story. Spialter: Would it be fair to say that the notice that went out to the public then is erroneous? Sincox: That's a legal issue. Spialter: but I believe it is and if that's the case I don't believe your clients can proceed at this time because they are not seeking a half story, their looking to make a two story home. Sincox: understood. Spialter: I will not allow the board to proceed with this matter tonight based upon the application as presented does not conform with our ordinance and does not conform in reality of what it is they want and the publication to the people did not provide proper notice. Sincox: So they have to re-notice if they want to re-appear? Spialter: Start over, the application talks about a half story and in realty it's not. Sincox: yes, it's a full story. Spialter: Are you withdrawing the application? Sincox: yes. Spialter: The applicant has withdrawn their application.

RESOLUTIONS

Calendar #1-15, Reorganization Meeting. Attorney Spialter read onto the record Resolution 1-R-15. Edward Ruth brought a motion to accept the resolution as read. Motion was seconded by John Tierney. *Vote in Favor: Ruth, Krok, Tierney and Kaminsky*

Calendar #2-15, Annual Report, Attorney Spialter read onto the record Resolution 2-R-15. John Tierney brought a motion to accept the resolution as read. Motion was seconded by Edward Ruth. *Vote in Favor: Ruth, Krok, Tierney and Kaminsky*

ADJOURNMENT

Edward Ruth brought a motion to adjourn. Motion was seconded by Thomas Meade and carried unanimously by voice vote. Meeting adjourned at 8:35 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

March 23, 2015

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, MARCH 23, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, John Tierney, John Caliguire, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade

Also Present: Alternate Member Chris Tierney, Board Attorney Howard D. Spialter and Janet Gentry, Board Secretary

OLD BUSINESS

Minutes from the February 26, 2015 public meeting were reviewed. Edward Ruth brought a motion to accept the minutes. Motion was seconded by John Moricz and carried unanimously by voice vote

PRIVATE SESSION

John Tierney brought a motion to go into private session to discuss litigation. Motion was seconded by Douglas Krok and carried unanimously by voice vote.

Edward Ruth brought a motion to come out of private session. Motion was seconded by John Tierney and carried unanimously by voice vote.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, John Tierney, John Caliguire, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade

Also Present: Alternate Member Chris Tierney, Board Attorney Howard D. Spialter and Janet Gentry, Board Secretary

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimously. Meeting adjourned at 8:50 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

April 27, 2015

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, APRIL 27, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:13 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: John Caliguire

Also Present: Alternate Member Chris Tierney, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the March 23, 2015 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Tierney and carried unanimously by voice vote

NEW BUSINESS

Calendar #4-15, Antonio & Maria Ribeiro, 32 Stemmer Drive. Mr. John C. Phillips is the Attorney representing the Applicant. Mr. Spialter reviewed proof of mailings and stated that all were in order.

Spialter: In reading the publication itself on what was served, I have a question. It reads "the owners/applicants proposed use of the second floor will not result in any change or modification to the exterior of the previously approved building envelope nor any change in variance relief previously granted by the board." I'm sure that you are aware that this is your client's third application before this board. The first one was a resolution approving what variances they sought basically one year ago Resolution 4-14 and we have sort of a temporary start with the second application; about a month or two ago, and there was some

preliminary review and my recollection is that the rear of the house had a different configuration with windows, roof line and a modification of a chimney which was somewhat different than what was approved a year ago. We need to know if that's accurate, if there's a change in the exterior because if there is I have to question whether the Board has jurisdiction to presently hear this matter based upon the wording in the application. Mr. Phillips: I had the architect take a look at that, it's my understanding, and I submitted to the board a copy of the original footprint and a copy of the new footprint and they are identical. Kaminsky: we are not questioning the footprint; we are questioning the windows on the second floor and chimney. Spialter: It depends on how someone reads the publication. It talks about; the words are: "will not result in any change or modification to the exterior of the previously approved building envelope or any change in variance relief previously granted by the Board." We have two aspects that are at play here, one is the exterior building envelope and the other is the variance relief previously granted. The question that I perceive is that even if the building envelope is not different, the variance resolution granted a year ago made specific reference to the plans presented to and relied upon by the board and relief was granted based upon the utilization of those plans. Do we have an envelope issue, if we don't have an envelope issue; even if there are exterior changes from that which was presented last year and relied upon by the Board, that in essence would give rise to some difference that the board would have to consider and the question is; has proper notice been given in regard to that and if not, or if it's in question, does the board has jurisdiction to hear the matter tonight. Phillips: the footprint has not changed. There is an addition of two dormers and a chimney on the rear of the building which has not changed the roofline, not changed the volume or anything else other than putting two windows into an existing area with dormers. Given the nature of the application, it does not change variance relief, it does not change the volume of the house, it really doesn't change roof line other than the two dormers on the rear of the building and I would ask the board to consider the application tonight to hear it, rather than put it off. Spialter: doesn't the presence of two dormers increase square footage, volume, they take up space and doesn't that increase volume and doesn't that increase something somewhere and we have at play here the board having jurisdiction and even if the board were to be liberal and say they would hear it, are your clients not at risk somewhere down the road if someone else looks at this and says the board never had jurisdiction because there are significant changes from that which was given a year ago. Phillips: That is a theoretical concern; however, I would take the position that the change is not so significant. In this case, it's on the rear of the building, it is not square footage, it is not anything that would cause anyone to object to this application to come in on that basis. We are here because the board in the resolution made reference to a single story but absence of one-story representation in the resolution, the applicants could have gone to the building inspector and got their plans approved, because there's no change to variance relief and no change to the exterior of the structure. I understand it was kicked back to this board because it was listed as a one-story structure in the testimony. Spialter: The resolution from a year ago makes specific reference in more than one place, single one-story. I have questions and I will leave it up to the board to decide, is the board sufficiently

satisfied that it has jurisdiction to hear the matter tonight or does the board desire to have everyone re-noticed. I placed my concerns on the record but I don't feel that I should make that decision as one person and sweep that away from the board.

Spialter: If there's going to be a motion, the motion has to be in favor of proceeding tonight or not proceeding tonight.

John Tierney brought a motion not to proceed tonight. Motion was seconded by Steve Kaminsky. *Discussion took place regarding an appeal and commentary was given by members: Vote:* Ruth: yes, Krok: yes, Meade: no, Tierney: yes, Moricz: no, Helm: no, Kaminsky: yes.

Spialter: It appears that to be able to proceed; matter will have to be re-noticed and republished and we will carry this to the next meeting. Next meeting is May 11th. It's going to be tight giving the 10-day notice. The Chairman just asked about transcripts. Spialter to Mr. Phillips: I'm going to ask to have a transcript prepared of last year's proceeding so that the board will have a full record of what was testified to, that gave rise to the Resolution last year.

PRIVATE SESSION

Thomas Meade brought a motion to go into private session to discuss litigation. Motion was seconded by John Tierney and carried unanimously by voice vote.

Edward Ruth brought a motion to come out of private session. Motion was seconded by Thomas Meade and carried unanimously by voice vote.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: John Caliguire

Also Present: Alternate Member Chris Tierney, Board Attorney Howard D. Spialter and Board Secretary Janet Gentry

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Thomas Meade and carried unanimously by voice vote. Meeting adjourned at 9:53 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

May 11, 2015

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, MAY 11, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: Thomas Meade and John Caliguire

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the April 27, 2015 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes as amended. Motion was seconded by Douglas Krok and carried unanimously by voice vote

NEW BUSINESS

Calendar #4-15, Antonio & Maria Ribeiro, 32 Stemmer Drive. Mr. John Phillips is the attorney representing the applicant. Mr. Phillips: Proof of Publication due the short time between this meeting and the last, affidavit of service is fine, certified mailings is fine, the affidavit indicates that an affidavit of publication was filed with the Court and was published in a timely manner. Proof of Publication will be provided to the Board. *The actual newspaper publication was submitted and Marked as Exhibit A1.* Mr. Phillips: We are here tonight to ask this Board to remove the one-story limitation that's in the Resolution. The applicant was planning on using the first floor of 2,000 sq. ft. When the contractor came in to begin to lay out the rooms, he realized that the rooms on the first story were too small. They have three daughters. The original plans call for a master bedroom, a sitting room and one other bedroom. Obviously when the girls come back from

college they will need a room. They decided they needed more space, spoke with the architect and he suggested going to the second floor and building in the existing envelope.

Mr. George Sincox, Architect & Planner was sworn in by Mr. Spialter. Mr. Sincox: The house as originally designed and presented initially to the Board has two bedrooms. There was a lot of space in the attic which at that time was intended not to be used and used only for attic space. Gabe came to me, and we are partners and discuss things all the time, so when the bedrooms were laid out, one bedroom was much larger and the small one was too small. The owners wanted to reconfigure to gain more space which was totally inadequate and that's when the discussion came about the attic. Mr. Spialter: When it was brought to your attention by your partner that there was a distinction in the size of the bedrooms, was what he was relating to you a size differential that was different from the plans that were approved by this board or is he relating to you his visual understanding of what was being built in accordance with the plan. Sincox: built in accordance with the plan which was entirely too small. Spialter: It was built according to terms of the plans that was presented to this board upon which the board relied, correct? Sincox: yes, but I would like to point out that a few changes were made that are made all the time, interior alterations are made from the building department. Spialter: The prior application to this board was a two bedroom home and designed by you and the dimensional aspects of the various rooms were presented to you by the applicant or presented by you to the applicant? Sincox: we had discussions back and forth so it was agreed on. Spialter: is it you understanding that the concerns raised was that of the applicant? Sincox: yes. Mr. Phillips: The original proposal was to have the master bedroom on the first floor and I believe that the testimony was that as they begin to age, they didn't want to go up and down stairs and presently before the board the master bedroom is still on the first floor so that aspect of it has not changed. It's only when two new bedrooms on the second floor and bath on the second floor became an issue. There is no change in the footprint of the building as approved by this board. There is no change in the exterior of the building as approved by this board with the exception of the chimney and the two dormers in the back and that change was approved by the zoning dept. Kaminsky: did the original plans include the two dormer windows in the back of the house? Sincox: the original plans did not. Kaminsky: and they were the ones approved by the board, correct? Sincox: approved by the building department, yes. Kaminsky: the one approved by the board? Sincox: it was without dormers. Kaminsky: There was an oversite by the building inspector that he approved plans with dormers on it, correct? Sincox: that's not correct, changes like that are made all the time, minor changes can be made to the facade of the building without coming back to any board. Kaminsky: I don't consider going into a second floor when we were told that it wouldn't be used for anything but storage a minor change, that's why we're here tonight. Spialter: The board granted an approval to the applicant last year certain drawings which did not include the two dormers or the extension of the chimney, is that correct? Sincox: correct. Spialter: this Board approved certain plans, the plans that were presented initially to the Building Department after this Board approved

them, were they the same plans that this board approved? Sincox: essentially the same. Spialter: what differences were there? Sincox: we added the chimney and the dormers. Spialter: that was done between this board's approval and the initial presentation to the building department as the initial filing with the building department for purposes of construction, is that correct? Yes. Spialter: when the plans were presented to the building department that contained both the dormers and the chimney, was it pointed out to the building department that these plans differed from the plans presented to the board? Sincox: not to my knowledge. ***Mrs. Ribeiro submitted a copy of her building plans to the board, Mr. Spialter and Mr. Sincox discussed the revision dates.*** **Spialter: Is there any relationship to the plans prepared by your office dated April 11, 2014 and the resolution entered by this board dated one day prior, April 10, 2014.** ***Revision dates continued to be discussed***

Questions from the public: none

Gabriel Landerverde, assistant to Mr. Sincox. ***Mr. Landerverde who worked on this project with the Architect's office, applicant and builder described in detail on how the decision was made to build on the second floor and discussed the revision dates. Board members reviewed what pages of building plans were submitted to the construction office. Mr. Spialter continued to discuss revision dates with Mr. Sincox. .***

Spialter: If A-1A is what this board approved and its dated April 11, 2014 the day after the Board's resolution dated April 10, 2014 then how is A-1A not part of the April 11, 2014 application for plans presented to the Building Department if you're relying on what the Board approved the day before. Sincox: plans were revised for the change of dormers, masonry fireplace. Spialter: I don't want to confuse the issues, I don't care about the dormers, or the chimney, I don't care about any of the aesthetic changes, I care about what this board approved that you just testified to that was part of what you presented to the building department as part of the April 11, 2014 drawings to get the construction permits for that house, do I understand your testimony correctly? Sincox Yes. Spialter: Show me, show me where A-1A exist in the plans you just testified to, I don't see it. ***Discussion on plans and their revision dates continued between Mr. Spialter, Mr. Landerverde. Mr. Sincox and Mr. Phillips. Mr. Sincox and Mr. Spialter continued to discuss building department plans.*** **Marked as Exhibit A2 was the Site Plan submitted to the Board.**

Mr. Spialter to Mr. Sincox: Have you read the Resolution of this Board? Sincox: not until tonight. Spialter: do you have a copy of it? Mr. Sincox: the attorney does. Spialter: Just so the record is accurate as to the licensed architect and planner on behalf of the Ribeiro's prior to May 11, 2015 never read the Resolution of this Board dated April 10, 2014. It says "variances are approved subject to but not limited to: Adherence to the plans and specifications as presented to and relied upon the Board in rendering its decision as embodied herein." Is it fair to say that the plans as presented to the building department dated April 11, 2014 did not adhere to the plans and specifications as presented to and relied upon the board in rendering its decision dated April 10, 2014, it's a yes or no question Mr. Sincox.

Kaminsky: What was submitted to the Building Department, were they the exact plans that the board approved? **Sincox:** They were not exactly, there were some differences in size and some configuration and dimension change, interior alterations, when we filed; dormer and chimney were added and second floor improvements. *Mr. Kaminsky read from the original transcript dated February 24, 2014. It stated: We looked at other possibilities, it is possible to increase the size of a house by adding a second floor as opposed to going up, however, as we all age, we tend to have a more difficult time with stairs. The neighborhood I think; tends to be primarily single story homes. In keeping with the neighborhood, was another one of the factors that led us to maintain one-story and to expand on one floor.* **Kaminsky:** do you think that the original application with an additional 3' side yard setback that was granted was dedicated on the fact that you're not going after a second floor in this house? *Mr. Tierney also questioned the transcript where Mr. Ruth questioned: no additional space that you'll be using above the second level? Mr. Sincox stated No; that's all added space.*

Spialter: Mr. Sincox, as a qualified expert witness in Architecture and Planning. Is a one-story home with a large attic the same as a two-story home; the second story of which is finished for occupancy purposes? Sincox: no. Spialter: based upon that answer would it be fair to say that that would not be a minimal deviation or minor change that would not be just brushed off by building department as part of change orders during a construction process. *Mr. Spialter continued to question Mr. Sincox regarding building permits.*

Questions from the Public: none

Mr. Phillips gave a very detailed summary. He apologized for the errors that were made and asked the board to vote in favor of the application.

Mr. John Tierney brought a motion to ***deny.*** **Motion was seconded by Edward Ruth.** *Board members gave commentary. Vote:* **Ruth; yes, Krok; yes, Chris Tierney; yes, John Tierney; yes. Moricz; no, Helm; no, Kaminsky; yes (application denied)**

Kaminsky: the application to the board did not include dormers in the back of the house. Is it my understanding that it has to be changed? Spialter: Mike Khoda, the Building Department should be aware of what this board approved and Janet may want to double check with the building department to make sure that they have an accurate set of plans that this board approved in connection with whatever build out is continued by the Ribeiro's. Obviously Mr. Sincox can provide them with another copy so everyone is on the same page with what the plans are. It's not this Board's function to police that aspect. That's the Building Departments function.

ADJOURNMENT

Ed Ruth brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimous
sly by voice vote. Meeting adjourned at 10:04 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

June 22, 2015

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JUNE 22, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, John Tierney, John Moricz, Chris Tierney and Steve Kaminsky

Members Absent: John Caliguire, Thomas Meade, William Helm

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the May 11, 2015 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by Douglas Krok and carried unanimously by voice vote

RESOLUTION

Calendar #4-15, Antonio & Maria Ribeiro, 32 Stemmer Drive. Attorney Spialter read onto the record Resolution 3-R-15. John Tierney brought a motion to accept the resolution as read. Motion was seconded by Edward Ruth. Vote in favor of Resolution: Ruth, Krok, John Tierney, Chris Tierney and Steve Kaminsky

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Doug Krok and carried unanimously by voice vote. Meeting adjourned at 9:21 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

8/24/15

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, AUGUST 24, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:02 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: John Caliguire, Chris Tierney

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the July 27, 2015 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by Douglas Krok and carried unanimously by voice vote.

Mr. Spialter stated that there is litigation he would like to discuss and suggest we go into private session.

PRIVATE SESSION

Douglas Krok brought a motion to go into private session. Motion was seconded by Thomas Meade and carried unanimously by voice vote.

John Tierney brought a motion to come out of private session. Motion was seconded by Edward Ruth.

ROLL CALL

Member Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz, William Helm and Steve Kaminsky

Members Absent: John Caliguire, Chris Tierney

Also Present: Board Attorney Howard Spialter and Board Secretary; Janet Gentry

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimously by voice vote.

Meeting adjourned at 9:37 p.m.

Taken and Transcribed by:

Janet Gentry　　　　Sept 25, 2015

Janet Gentry-Secretary　　　　**Dated**

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, SEPTEMBER 25, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:02 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Caliguire, John Moricz and Steve Kaminsky

Members Absent: none

Also Present: Alternate Members William Helm and Chris Tierney, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the August 24, 2015 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Tierney and carried unanimously by voice vote

PRIVATE SESSION

John Tierney brought a motion to go into private session. Motion was seconded by Edward Ruth and carried unanimously by voice vote.

John Tierney brought a motion to come out of private session. Motion was seconded by Thomas Meade and carried unanimously.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Caliguire, John Tierney, John Moricz, and Steve Kaminsky

Members Absent: none

Also Present: Alternate Members William Helm and Chris Tierney, Board Attorney Howard D. Spialter and Board Secretary Janet Gentry

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Caliguire and carried unanimously by voice vote. Meeting adjourned at 9:17 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Oct 22, 2015

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

THURSDAY, OCTOBER 22, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:01 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Moricz, John Caliguire and Steve Kaminsky

Members Absent: William Helm

Also Present: Richard O'Connor, Township Engineer, Kevin O'Brien, Township Planner, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the September 25, 2015 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Moricz and carried unanimously by voice vote.

NEW BUSINESS

Board member Thomas Meade arrived during this proceeding and did not participate in this application for Calendar #5-15

Calendar #5-15, Michael Simone, 5 Westfield Avenue. Mr. Jason Pressman is the Attorney for the Applicant. Mr. Spialter stated that proof of mailings and notices were in order. Mr. Spialter: This is a use variance with bulk variances? Mr. Pressman: yes. Mr. Simone stated that he is the applicant to this property located at 5 Westfield Avenue and signed a lease in July and the lease is contingent on tonight's application. Mr. Pressman: one of the issues with this application is how you are going to dispose of the pet waist, can you describe to the board how you will deal with that situation. Mr. Simone: There are services that come once a day and outside there will be an area where every employee will be able to dispose of the

waste. I plan on two employees, hours of operation on weekdays will be 10am to 7pm, Saturdays 10am to 6pm.

Questions from board members: Chris Tierney: are you planning on selling any merchandise? Just a few things like sweaters, dog's brushes and beds. J. Tierney: there's a pet store next door and that store is actually connected and you actually work at this pet store; correct? Yes, Animal Crackers. Many of the items you sell will be sold at this pet store and vice versa, correct? Yes. Kaminsky: is there an interior door between this store and the pet supply store? Yes, it's an existing door but that door will be locked. Krok: There's a question here from the Health Officer on animals being vaccinated and licensed, how would you address that? For every pet that enters the store, we need to see their records. John Tierney: you going to do the washing? No, it's self-washing and by appointment only and there will be cages inside when the pet is done. Ruth: what happens if you're locking up and the owner doesn't show up? The dog would have to come home with one of us. The dog would not stay on the premises? No. Spialter: are you going to maintain your relationship with Animal Crackers? Yes. ***Mr. Spialter discussed restrictive covenant in a lease. Mr. Spialter and members continued discussion regarding outdoor clean up after dogs. Handicap Parking was also discussed.***

Mr. O'Connor: The parking space probably needs modification. Your one space would have to be a van accessible space, it is not currently and it's a shared space. It does not now appear to be compliant.

Spialter to Mr. O'Connor: Do you have a concern with regards to plans/testimony that you would like the board to consider with Mr. Simone being involved both with the existing dog pet store business and the proposed grooming business, do you see it as a potential one bulger enterprise that needs to be considered by the Board based on our ordinances? O'Connor: I don't think that's a concern for me as Engineer, maybe a concern for the Building Department at the time of application. My concern at this point is that the space is compliant and that the appropriate signage is in place and that the accessible pathway to the building is well documented which is currently not shown. But the applicant has asked that this be a use variance consideration and did not receive site plan approval. So once the applicant has the use variance approval he's still going to have to come in with a minor site plan approval that provides documentation that we've been looking for. ***Questioning continued to the applicant regarding self-washing and grooming areas.***

Questions from the Public: Walter Maxemow, 1272 Madison Hill Road, Clark. I live adjacent to this. You said they were going to clean up. There's a grassy knoll there and they clean up there? Yes. Do they clean up over here? Mr. Simone stated that they provide extra baggies. Mr. Spialter: so this gentlemen's question to you was that he see things and that you would not be surprised that it would be an occurrence sometimes.

Next Witness was Michael J. Pessolano, Licensed Professional Planner in the State of N. J. since 1984. This application is a site suitable for the proposed use in many ways. I think the application considers positive consideration because in my opinion it's a sound application. The proposal is to occupy 1,277 sq. ft. of an existing commercial building which is vacant since January. The DTV District seeks to encourage retail businesses, personal service businesses and variety of other uses and I believe that this is not one of those uses which I would expect to find in a downtown setting. Pet care is now part of everyday life. There are veterinarians, hospitals for pets, pet supply stores etc. The self-washing is a new concept and it makes sense. Owners are provided with the special equipment for bathing dogs. It's a good place to do this because it's a business area. As we heard earlier from Mr. Simone, the whole property would be in better care with a dog waste pick up service. As you know this use is not permitted in the district. Literally nothing has to change to accommodate this use. Setting for short parking, I think this happens when one customer who maybe a customer of the grooming establishment also a customer to pet supplies from the adjoining establishment, one parking space used for two different places. Parking also can be self-managed by the applicant in terms in scheduling the appointments so there is no overload. Overall I believe the parking resources are very suitable for the three tenants that operate on that property. I was told that there was a van-accessible space, up against the back of the building. O'Connor: should the applicant prevail tonight he will be required to submit a site plan to the Board to the Township which will be dealt with administratively as a minor site plan. At the time he submits that; he's going to have to document compliance with that, at that time. His current plan does not show that.

Marked as Exhibit A-1. This exhibit contains nine pictures. Page one is an aerial photo of the site. Page two contains four pictures, two pictures of the parking lot, without striping, front view of Animal Crackers and the side entrance to Animal Crackers. Page three contains four pictures, Land Use North: commercial on Westfield Avenue. Land Use: Commercial on Madison Hill Road. Land Use North: screened residential on Washington Street and shows signage. Land Use West: screened commercial on Westfield Avenue and shows signage.

Spialter: you have some area near the building that has grass and trees on it but is not owned by the owner. What aspect of those areas will be cleaned up? Mr. Simone: I think it would benefit the whole area to service it. Spialter: even the grassy area that's technically not owned by the landlord; you would pay to have it cleaned? Yes.

Closing Statements: Mr. Pressman, I want to thank the board for their consideration tonight. I think we demonstrated positive and negative criteria on this application and hope for a positive result. *Further discussion continued on cleanup.*

Edward Ruth brought a motion to approve Calendar #5-15. Motion was seconded by Douglas Krok. Vote: *All Ayes.*

Calendar #6-15, V & R Developers, 1132 Westfield Avenue. Stanley Fink is the Attorney representing the Applicant. Board Member John Caliguire stepped down for this application; he is within the 200 radius. Alternate member Chris Tierney sat in for Mr. Caliguire.

RECESS

Douglas Krok brought a motion to take a 5-minute recess. Motion was seconded by John Tierney and carried unanimously by voice vote.

ROLL CALL

Members Present: Ed Ruth, Douglas Krok, Chris Tierney, John Tierney, John Moricz, Thomas Meade and Steve Kaminsky

Also Present: Board Member John Caliguire, Richard O'Connor; Township Engineer, Kevin O'Brien; Township Planner, Gordon Meth; Traffic Consultant, Howard D. Spialter; Board Attorney and Janet Gentry Board Secretary

Members Absent: William Helm

NEW BUSINESS

Mr. Fink: The subject property is at 1132 Westfield Avenue. The property is owned by Wilson Bonney and has owned it for a number of years and is in a contract to sell that property to the applicant, the developer, who will then construct a day care facility on the property for the Learning Experience, a National Company that has many of these all over the Country plus several in New Jersey. It's a day care center. Day care facilities are not a permitted use in this particular zone. This is a RTH, residential townhouse zone district, however, day care centers and day care facilities are considered by State Statue; inherently beneficial uses under the Municipal Land Use Law in the State of New Jersey. Therefore, we ask to bifurcate this application, first to seek a Use Variance and then return at a later date with a Site Plan for approval. This also must be approved by the Union County Planning Board because Westfield Avenue is a County Road. The operator of this facility must comply with all New Jersey licenses, state licensing requirements. So tonight we are asking for a use variance to permit the use of this facility on this site in the RTH Zone. Keep in mind throughout the testimony that upon approval of the use variance; thinking positively, we will be back with a site plan so if there are site plan questions they may not be answered directly because the site plan is not in front of you. Right now is just a general plan of the layout of the property.

Elton Bonney, 1132 Westfield Avenue. Mr. Bonney stated that he is under contract to sell this property to the applicant. He has owned this property since 1981. He has lived there and had his business there as well. The business was an

outdoor power and equipment with sales in parts, lawn mowers, chain saws, snow blowers. *Mr. Bonney described the uses surrounding this property.* He also stated that there was another day care center interested in purchasing his property; he also was previously contacted about a car wash and a Krauser's.

Questions from the Public: Tom Kowalczyk, 27 Garside Place. You don't own the property next to yours? No. Do you know if that property is going to be impacted by this building? To the best of my knowledge it's not. Mr. Kowalczyk was told by Mr. O'Brien that this would not impact that lot

Next Witness: Mr. Gerard Gesario is a Licensed Professional Engineer in New Jersey. Marked as Exhibit as A-1 is an Aerial Exhibit. Mr. Gesario described the uses surrounding the property. Marked as A-2 is the existing conditions. He stated that the access to the site is on Westfield Avenue. All structures on the property will be demolished. From a land use prospective it is not a flood plain so for this application no land use permits will be needed by the DEP. Marked as Exhibit A-3 is the proposed conditions. This will be a 2-story 5,500 sq. ft. building. Behind the building will be a play area enclosed by a fence. Parking for the proposed use is in front of the building and will use the same driveway location. *Mr. Gesario discussed the bulk variances associated with this application.* He stated that they will comply with the ordinance for landscaping. Fink: In terms of this particular use; your firm has worked with them in the past so that what you designed here, for the purpose of the use variance, complies with what the Learning Experience requires and what they have on other sites in terms of the layout and what was designed. You mentioned that the fencing will be sufficient to pass the State licensing authorities that want jurisdiction over such facilities, whatever they require the applicant is prepared to comply with. *Mr. Gesario agreed with Mr. Fink's comments.*

Mr. Fink: You mentioned a couple of other sites that are in this area that you worked on. Mr. Gesario: Roseland and Union. Fink: is Union typical of what we have here? Gesario: Roseland is a two story and Union is a single story. Spialter: the lot that the single story is on; how does it compare to this one? Gesario: Similar sized lot. *Drainage/water pump was discussed.* O'Connor: different emergency management people view these facilities differently, some prefer not to have a fence to facilitate their ability to affect a recue promptly and others want the fence to prohibit someone from being able to get in to; sort of define it as an attractive nuisance and to prevent the access. Typically Clark's Emergency Management people have for shallow basins and have preferred the ability to access the area quickly and promptly, as a result most of the shallower basins throughout town are not fenced because of that, to facilitate a rescue in the event one was necessary. That would be a question you may want to raise with our police and fire when they are here next time.

Questions from the Public: Tom Kowalczyk, 27 Garside Place. Where do kids go in case of an emergency evacuation? Gesario: I think that a question for operations people.

This application will be continued on November 19th.

PRIVATE SESSION

Mr. Ed Ruth brought a motion to go into private session; motion was seconded by Tom Meade and carried unanimously by voice vote.

Mr. Doug Krok brought a motion to come out of private session; motion was seconded by Thomas Meade.

ADJOURNMENT

John Caliguire brought a motion to adjourn. Motion was seconded by John Moricz and carried unanimously by voice vote.

Meeting adjourned at 11:15 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

November 19, 2015

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

THURSDAY, NOVEMBER 19, 2015

A public meeting of the Clark Board of Adjustment was called to order at 7:15 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Moricz, John Caliguire and Steve Kaminsky

Members Absent: William Helm and Thomas Meade

Also Present: Richard O'Connor, Township Engineer, Kevin O'Brien, Township Planner, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

PRIVATE SESSION

John Tierney brought a motion to go into private session to discuss litigation. Motion was seconded by Edward Ruth and carried unanimously by voice vote. Time was 7:15 p.m.

John Tierney brought a motion to come out of private session. Motion was seconded by John Caliguire and carried unanimously by voice vote. Time was 8:19 p.m.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Chris Tierney, John Tierney, John Moricz and Steve Kaminsky

Members Absent: William Helm and Thomas Meade

Also Present: Richard O'Connor, Township Engineer, Kevin O'Brien, Township Planner, Gordon Meth, Township Traffic Consultant, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the October 22, 2015 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Tierney and carried unanimously by voice vote.

NEW BUSINESS

Calendar #6-15, V & R Developers, 1132 Westfield Avenue. Stanley Fink is the Attorney representing the Applicant.

Board Member John Caligiure stepped down for this application; he is within the 200 radius.

Fink: The subject property is at 1132 Westfield Avenue. The application is for a pre-care center. We are seeking a use variance and if approved will be back with a site plan application for your consideration at that time.

Russ Luttino, Real Estate Development. We have two facilities called The Learning Experience, one is in Rivervale which is in Bergen County and recently completed one in Woodbridge in Middlesex County. The one in Rivervale is exactly 10,000 sq. ft.; very similar to this, built as a one-story. The one in Woodbridge is in excess of 13,000 sq. ft. with a daycare on ground and residential apartments above it. Fink: You are going to build this and own the property and they will lease it from you, is that correct? Mr. Luttino: Yes, build it and lease it back to them. Fink: you approved the plan for this particular facility? Mr. Luttino: Yes I have.

Questions from Board Members: Spialter: If you own the land and lease it back to Learning Experience, what happens if it's not a successful venture? Luttino: we would then look for a different type of use. Moricz: How long have the other locations been in business? Rivervale has been there since 09 and in Woodbridge since 2013 and both facilities operate very well. Spialter: is that similar where you own the property and lease it to them? Yes, in Riverdale they are part of a 30,000 sq. ft. shopping center and in Woodbridge it has residential above it, but both arrangements are identical, 15 year leases. Spialter: so this would be the first Learning Experience facility in which they would be the sole tenant of the property? Correct, they stand alone. Kaminsky: beside building it and leasing it, what do you do with the property, oversee them and visit them? We own and manage them. Kaminsky: but you're not involved in the daily operations of them? No, not with the Learning Experience, I'm only the landlord. Fink: with regard to construction of a project like this, there is obviously strict regulations when you run this kind of facility, so when you build it and I'm assuming that your familiar with the State requirements for this kind of facility and Learning Experience gives you direction on what to build and how? Luttino: very much so, yes.

Questions from the Public: Gregory Oross, 30 Cutler Place. Did you investigate other areas of town that's zoned where it's a permitted use for a day care center? No.

Next Witness: Sharon Steinhardt, Regional Manager. Ms. Steinhardt stated that she oversees the daily operations of 15 centers throughout New Jersey, one in Westchester and one in Connecticut. There are 153 centers throughout the Country and 50 in New Jersey. *Ms. Steinhardt described the daily routine at the Learning Centers.* We have no set time for drop off or pick up, so parents can come throughout the day, 6:30 it starts. We offer three days and 5-days; we also have part day programs, 8:30-12:30, 8:30-3p.m., full days 8:30 – 5:30 with drop off options of drop off earlier or pick up late. Ages are six weeks to six years. Playground is in the back of the building, one side for younger and the other side for the older children.

Questions from Board Members: Kaminsky to Steinhardt: how many children at Rivervale? 172. Do you provide busing for students? No. Every child is picked up and dropped off by the parents? Yes. 176 trips in at that location and 176 trips out, correct? No, there are some families with multiple children. What percentage of multiple families? About 5%. <u>Kaminsky</u>: you're still looking at 150 trips in. <u>Steinhardt:</u> not every day; some are part time and there's an absentee rate of 20% so it varies. <u>Kaminsky</u>: who do we talk to about where the children go in case of emergency? <u>Steinhardt</u>: once the site is approved, they look for a safe location that would be able to accommodate us within walking distance. <u>Kaminsky</u>: you talking about off site location? Yes, if we had to evacuate the building. One of my locations has a storage facility that's open or whether it's a restaurant that has hours opened, it depends on the site. If it's a fire drill, there's an area in the parking lot, if they have to get off the premises they find an emergency evacuation site that would be able to accommodate all the children and the hours they need. <u>Ruth</u>: on an average day how many children would be in the building? On a certain day out of 150 children, they may be 130 children. <u>Spialter</u>: if Learning Experience is sole center and Mr. Luttino's company is expecting rents to be paid from the sole tenant, arguably there's income and expenses and you need something in the positive range to be able to pay that rent and someone decides that the Learning Experience with 150 facilities is the numbers cruncher to look at things and have an understanding as what we need to make it function. <u>Steinhardt</u>: Whether the tenant or whether it will be the franchisee at the center, there's training, working capital that's put aside, but I work with them to achieve the goal they need. <u>Spialter</u>: so this is a Franchise? Yes. *Discussion took place between Mr. Spialter, Mr. Fink and Board Members regarding the Franchise.* <u>Spialter:</u> as the Regional Manager do you scope out what your competition is? Yes. <u>Spialter</u>: have you conducted any scoping out of competition in connection with this facility? I have not personally but corporate has. <u>Spialter</u>: is it fair to say that you do not know the results of that other than the fact that you're here so they must be satisfied. <u>Ms. Steinhardt</u>: exactly, there is a need for child care in this area, all levels of child care and that's why we're here.

Kevin O'Brien: Are all employees who are in contact with the children licensed? No, they are finger printed and background check. O'Brien: Who runs the finger printing and background check? State of New Jersey, they have to have child abuse records and finger printing. *Licensing of employees was discussed.* J. Tierney: you have handicap and special needs children, you don't turn them away and you have people who can handle that? Exactly, and the bathrooms are set up for them.

Questions from the Public: Bob O'Flynn, 21 Garside Place. At some point there will be approximately 120 children at the school, in the event of a fire drill or emergency these kids will go into the parking lot? Steinhardt: We have a set area in the parking lot. O'Flynn: the same parking lot that the emergency vehicles will be entering. Tom Kowalchek, 27 Garside Place questioned locating 120 children in the parking lot. *A discussion took place between Mr. Spialter and Mr. Fink.* Mr. Fink: If you want details; that will have to come from the other professionals.

Next Witness: Matthew Jarmel, Licensed Architect in New Jersey. Mr. Jarmel stated that he is the Principal of the Architectural Engineer firm of Jarmel Kizel and when it comes to child care I designed upwards of 150 child care centers throughout the Country. When it comes to Learning Experience I had the pleasure of being the exclusive architect for about 90% of their facilities. I've actually developed five Learning Experiences in the State of New Jersey and currently own four. Spialter: you own them? I'm the Landlord. *Mr. Jarmel gave his credentials and Mr. Spialter stated that Mr. Jarmel can be recognized by the Board as an expert in architecture and architecture specializing in child care facilities. Mr. Jarmel gave a detailed explanation on licensing procedures, operating procedures and safety requirement for the building.* There is a tremendous amount of stringent requirements. With evacuation, the building is mandated by the law to have multi fire codes; they do fire drills on a regular basis. They work with the local fire dept. to discuss how to evacuate the building and where the children should go. If the emergency prevents the children from going back in, we have to have a contingency plan where their obligated to have a facility to take the children to. For an example in some locations they made arrangements for hotels and with busing companies. If they didn't have their own buses then they would make arrangements with a charter bus company and have the buses take them to a safe facility. The State doesn't let them operate unless they submitted those procedures and plans. Once the building is built the State comes back and inspects the building. *Mr. Spialter mentioned the written comments from the Clark Police and Fire Dept. Mr. Fink responded by stating they would reach out to the Fire and Police Dept.*

Richard O'Connor: The Police Dept. has not changed its opinion. They still have concerns and brought their memo in place. Our Fire Chief was supposed to be here tonight but is sick today. Our Fire Chief is a full time fire chief who is available through town hall, who's present for CCO Inspections and other things for the building department so I don't know what circumstances is making him unreachable. But in this particular instance this week was the League of Municipalities Convention and he was out sick today. Jarmel: we will reach out and try to schedule a meeting and report back to you. O'Connor: perhaps the Chair should request through Janet a formal written request go out to the Police and Fire Departments for their attendance at meetings as part of this application and that they provide written responses as may be appropriate. Spialter: I'm looking at Lieutenant Pollock's letter dated September 8th and I'm going to read the third paragraph into the record. It says "I would like to know when the traffic study was conducted. I see the letter was dated July 22, 2015, if so; the conditions of the road way during the summer are much different than a work week with regular school traffic in full force. Spialter: has it been addressed to the police and have they responded. Jarmel: the answer is no but we will reach out to them. O'Connor: the Board also has its own traffic consultant in this matter that's pretty good at speaking for himself; he also has been present here and has been working with the applicant's engineer and at the appropriate time he will inject his concerns. While they may not be a perfect match for the police, there were similar concerns mentioned and discussed with the applicant and the applicant's traffic engineer and I don't know yet what the results of that were and we are looking forward to hearing from the traffic consultant and the applicant's traffic consultant.

Spialter: I would like to carry the 120-days to February 29, 2016. Fink: the applicant has agreed.

Jarmel: New Jersey is by far the State that they have the largest amount of child care centers in. *Mr. Jarmel discussed the provisions of franchising.* Part of Ms. Steinhardt's job is to visit the franchisees and make sure their operating properly by using the right curriculum, which their using all the procedures that the Learning Experience has perfected in doing that. One thing that I've see is that they're extremely strict with their franchisees if they don't follow procedures. They are monitored, they know how many children are in every building every day, and it's done on computer systems. Kaminsky: could you show us the area the children should be brought to? Jarmel: I will, but it's not decided upon without the input of your fire department. *Referring back to Exhibit A3.* My decision would be not to put them in the parking lot at all. I would put them in the back corners of the playground, there's a fenced area that is safe, that would be my personal preference. The playground has an egress but there are other options as well. Mr. Jarmel displayed a large color board that shows what Learning Express building would look like; this exhibit was marked as A4. Also Marked was A5, first and second floor plan of the proposed building. *Discussion on fencing of the site.* Jarmel: My client agreed that if it's the Board's privilege and desires to approve this application with the recommendation that we put a secondary fence outside of the playground fence that would be acceptable. *Mr. Jarmel discussed the procedure once the child enters the building.* Parking is in front of the building. Once the child enters the environment they stay in the environment and they don't leave until the parents come, pick them up and sign them out. If they go outdoors to the playground they still stay within that situated environment. The playground is divided into two areas based on the age group of the children. There are cameras throughout the building in every class, every stair, and every elevator, inside and out. There are circuit TV

cameras and all classrooms have windows in them. There is also a pantry at this facility that provides warming of pre-prepared meals that are delivered. This building being a 2-story building is very similar to Roseland N. J. Children under 4 ½ on the first floor and the upper floor for older children. One student allowed per every 35 sq. ft. and a teacher ratio of one for 15. These are all mandated by the state and approved and looked at. This chart which I project and I project 175 and the staff at 22. As most staff comes in they move the children around, not everybody comes at once and by law they wouldn't be allowed to have more than the licensed capacity.

Questions from Board Members: Moricz: Just looking at the numbers, a staff of 22, that's 22 parking spaces, handicap spaces being utilized as two more, that leaves you 11 spaces for potentially 175 drop offs. From my standpoint I have three kids and when I drop them off; I see how crazy some of these parking lots are. I can't imagine that kind of number. Jarmel: I'm not the traffic expert; the traffic engineer will give you raw data. Spialter: How many of the applications that you worked on are site specific with a single tenant with the Learning Experience as compared with Rivervale where it shares the space with other commercial ventures and compared to Woodbridge where it shares space with residential upstairs? Jarmel: I would say that 95% of ours are stand facilities as proposed here. Spialter: out of the 95% of the stand alone, do you know what the parking requirements are? Yes, they range anywhere from 30 spaces on the low side to about 42-45 on the high side. Union has very low parking and functions very well. ***Fire truck entering the site was discussed. Also several people from the audience asked questions regarding emergency evacuation, fencing and a question regarding the amount of time it takes to drop off a child into the facility.***

This application will be continued on December 7, 2015.

RESOLUTION

Calendar #5-15, Michael Simone, 5 Westfield Avenue. Attorney Spialter read onto the record Resolution 4-R-15. John Tierney brought a motion to accept the resolution as read. Motion was seconded by Ed Ruth. ***Vote*****: Ruth, Krok, J. Tierney, C. Tierney, Caliguire, Moricz and Kaminsky:** ***All Ayes.***

ADJOURNMENT

Ed Ruth brought a motion to adjourn. Motion was seconded by Douglas Krok and carried unanimously by voice vote.

Meeting adjourned at 11:04 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Dec 7, 2015

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, DECEMBER 7, 2015

A public meeting of the Clark Board of Adjustment was called to order at 8:06 p.m. by Vice Chairman Edward Ruth. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Star Ledger and Union County Local Source, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Douglas Krok, Chris Tierney, John Tierney, John Moricz, John Caliguire, William Helm and Ed Ruth

Members Absent: Thomas Meade and Steve Kaminsky

Also Present: Richard O'Connor; Township Engineer, Kevin O'Brien; Township Planner, Gordon Meth; Township Traffic Consultant, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the November 19, 2015 public meeting were reviewed. John Tierney brought a motion to accept the minutes. Motion was seconded by John Moricz and carried unanimously by voice vote.

NEW BUSINESS

Calendar #4-14, Iselin Realty, LLC, 1208 Central Avenue. James Turteltaub is the Attorney representing the Applicant from the law office of Carlin & Ward. Mr. Spialter stated that proof of mailings and publication are in order. Mr. Turteltaub: we are here this evening to discuss a settlement of a pending litigation we have right now between my client, Iselin Realty LLC and this Board regarding Site Plan approval for 1208 Central Avenue.

Mr. Daniel J. Dougherty, Licensed Commercial Engineer, Partner of Dynamic Engineering. Attorney Mel Herster came forward and stated that he represents 1180 Raritan Road LLC and stated that he does not object to this gentleman's qualifications. Mr. Dougherty marked as Exhibit A-1; a Site Plan rendering dated December 7, 2015. What we did was incorporated comments that were received at the time of the original application to make revisions to the site plan. The primary changes that occur are for traffic flow. The new plan utilizes the existing curb cuts and driveways both on Central Avenue and Raritan Road. We clarified the access at each of those driveways by adding stripped arrows. *Exit and entrance patterns were discussed in detail.* Parking is provided so that there are two parallel stalls now and improved the handicap stall located along the property line. The trash enclosure has been moved to the west corner of the site. The restrooms have been re-located to the Kiosk located in the southern filling island. The restroom will be ADA compliant and for employees only. *Discussion on location of tanks*. The pumps will contain extended hoses on all the pumps for the purposes of allowing each filling position to fill from either side of the vehicle, the hose will reach around so the attendant can fill the car from either side. The canopy will not have a lit facade; the only writing on the canopy will be shell logo symbol. There will be LED price points on the sign but will be white LED, not typical red and green colors. Deliveries on site will be restricted from the hours of 10 p.m. to 6 a.m. No retail sales on site will be permitted with the exception of auto items such as washer fluid, motor oil and anti-freeze. No display banners or temporary signs posted on the site at all. O'Brien: Conditions that were raised by the board that was a concern has been dealt with by the applicant which would include ADA Kiosk, parking spaces, tank location, trash enclosure, new directional arrows, stripped islands, traffic signage on site, canopy size and be limited only to the Shell logo, time of deliveries, illuminated led lights and the driveways are also as requested by the board. So based upon the Boards original list of recommendations, I would point out to the Board that those recommendations have been taken into this applicant's presentation. O'Connor: In general, the Court had ruled that the site was not abandoned and that the site was able to be used as a fueling station as of rights which basically left us with the existing gas station with the gasoline service station that the board had denied and was appealed by applicant or some hybrid that came through as a settlement. The applicant has worked with us through a number of settlement hearings, meetings and discussions and has adjusted the plan to the point where we believe it's a significant improvement to both the plan that the board had previously seen and voted upon and that it is a tremendous improvement over the existing; what had been the existing condition, at that site. The applicant has upgraded the lighting since the board had seen the original application through the use of LED's and pulling them up into the fixtures to eliminate any point sources and the applicant has essentially shifted the tanks towards the westerly side of the site which facilitates to open the site up for site circulation. So what the applicant has proposed as a settlement is in my opinion a significant improvement over what you've seen previously. *Mr. Hirster discussed settlement proceedings, egress and ingress driveways to the site, bathroom facility and parking.* Hirster: the old building is gone, subsequently you have to plan a gas station on a site that should be 40,000 sq. ft. and is far less than that, it's a postage stamp. Essentially you're trying to put ten pounds of trash in a five-pound bag and I suggest to you that the decision you make should be based upon the best deal that you could make for the town and the safest decision.

Mr. Turteltaub discussed the site plan; conditions/concerns of the Board. **Turteltaub: This is a plan that really gives onsite circulation, an issue that this board was concerned about. I believe that this is a manifestation of what the Boards' desires were for a site plan for this site and my client; hopefully can live with it.**

Douglas Krok brought a motion to approve Calendar #4-14. Motion was seconded by John Caliguire. ***Vote: All Ayes***

RECESS

Chris Tierney brought a motion to take a 5-minute recess. Motion was seconded by John Caliguire and carried unanimously by voice vote.

ROLL CALL

Members Present: Douglas Krok, Chris Tierney, John Tierney, John Moricz, William Helm and Ed Ruth

Also Present: Board Member John Caliguire; in audience

Members Absent: Thomas Meade and Steve Kaminsky

Also Present: Richard O'Connor; Township Engineer, Kevin O'Brien; Township Planner, Gordon Meth; Township Traffic Consultant, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

NEW BUSINESS CONTINUED

Calendar #6-15, V & R Developers, 1132 Westfield Avenue. Stanley Fink is the Attorney representing the Applicant.

Board Member John Caliguire stepped down for this application; he is within the 200 radius.

Spialter: A Certification from William Helm was received that he has reviewed the tapes due to his absence from this application.

Fink: This matter is for the child care center proposed on Westfield Avenue. What I would like to do tonight is to recall both Mr. Jarmel and Mr. Gesario since there have been some concerns along the way. Some members also questioned whether Police and Fire Dept. spoke with us, so we have to follow up on that also.

Mr. Gesario stated that he spoke with Fire Chief Cerasa and received an e-mail from him regarding his memo. We discussed the parking space in front of the building and he would prefer to leave that open but a handicap space would be accepted. I assured him that the building would be sprinkled with a fire alarm. I asked him if he needed access around the entire parking lot, he said no I do not, just

get me into the site. But I did submit an exhibit that shows a 28' vehicle with access around the parking lot. We talked about the area where children should go in case of an emergency and he said that the rear of the parking lot would be fine as long as it's out of the way of emergency vehicles and personnel. We also talked about a fence to further separate the parking lot from Westfield Avenue to further secure the children. At the end of our conversation, as stated in his memo, he has no issues with fire safety in regards to the site. *Detention basin and parking was discussed.* O'Connor: He can put the detention underground in the parking area and that frees up the lawn and landscaped area for a use such as this. It would be far more preferable to both us and to his own client then to try to lose another five spaces off the site. *Size of firetruck was discussed.* Mr. Gesario: I don't need to get it around the parking lot. O'Connor: typically, the vehicle for the fire dept. is usually a 40' pumper. At the time of their site plan, if it became necessary; to run the fire vehicle around that site then that curb would go from being a vertical curb to a mountable curb to accommodate the fire dept. O'Brien: Can a 40' truck safely get into the site from Westfield Avenue? Gesario: yes.

Mr. Matthew Jarmel came back up to answer several questions from the board. Mr. Tom Kowalceyk, 27 Garside Place. Do you have an elevator in the building? Yes. If there's a fire in the building, the elevators shut down? Yes. How do you get the handicapped students down stairs? The facility is not licensed for handicap students, but a teacher, for instance who is not ambulatory can go to an area of refuge, a fire rated enclosure, until fire department arrives. Is that on the second floor? Yes. *Mr. Jarmel stated that he e-mailed Ms. Steinhardt regarding children being evacuated from the building in an emergency; she investigated and identified several local businesses within close proximity where they can go.* Beyond that, the high school is across the street, city hall, police department and library all within a short walking distance. There are ample opportunities to seek shelter in case of emergency. *Ages and number of children were discussed.* Fink: They have to meet all state requirements with safety and evacuations, they can bring in buses and take them out that way.

Mr. Charles Olivo, Licensed Professional Engineer in N.J. and Traffic Expert. I've worked on ten to twenty-day care projects similar to this one. We received comments about our traffic assessments that were done in July of last year but there were some concerns that school was not in session. We received comments from Lieutenant Pollock as well as the Township Engineer. After that another report was submitted October 13th and a supplemental analysis and submitted to the board on Friday of the past week. I met with Mr. Pollock last week at the site to discuss any issues. We did counts on November 12th so we did perform counts before and after the summer months. Referring to A-1, The site is located on Westfield Avenue and is under County jurisdiction. There is one lane in each direction across the street frontage. Our proposed driveway is approximately 235' back from stop bar location. On Cutler and Garside, you do have stop bars to prevent blocking, but generally that area during peak hours is kept clear but we do see some queuing that occurs in that east bound approach as you come from the site towards the intersection of

Raritan Road. Westfield Avenue speed limit is 25 mph and Raritan Road also a County road, two lanes in each direction and speed limit is 35 mph. Westfield Av has about 10,000-15,000 vehicles on a daily basis, certainly an important roadway. In addition to traffic counts, we also looked at the percentage of times that the driveway would be blocked with queuing during the morning and evening peak hours which are typically the times of day when a daycare facility may experience its peaks as well, we looked at whether or not the queuing extends back from Westfield, back to the proposed driveway location, it does for about 8% of the times in the morning and about 5% of the times in the evening. So the blocking of the driveway is minimal. I know the question has been raised 175 students, 20-22 staff members and 35 parking stalls. We conducted our own sample counts now at four locations. This is not a school, it does not act as a school and it doesn't generate traffic like a school. There are children that come here and learn but most of your schools have an arrival time and a dismissal time. About 100% of your traffic volume with trips in and out occurs within an hour period, both in the morning and in the evening. This particular day care does not operate in this fashion. What we found during the peak hours of this use, about 45% of the trips occur. What you have is over a 3 ½ to 4-hour period where you have 100% of in and out's. Our trip generation figures are 78 vehicles in the morning peak and 70 vehicles out in a single peak hour, 71 in evening and 80 vehicles going out. Generally, what we found is the peak hour occurs 8-9 am and 5-6 pm. approximate time for drop off was 5 ½ minutes and 8 minutes for pickup. We studied four of the sites from rooftop, Cedar Grove, Ramsey, Parsippany and Union all similar to size and height. During the peak time which was between 5-6 p.m. we observed 25 vehicles parked. Marked as A-3 is a site plan exhibit. Mr. Olivo continued to discuss onsite parking. The parking demand associated with the drop off pick up, comes in and leaves so it leaves empty stalls. You constantly have filling and emptying of the parking stalls on the site and that is truly what provides the parking capacity within a facility like this. In my opinion the parking that's being proposed is adequate to accommodate the demand. So in terms of traffic, circulation, on site, lacks of impacts, off site intersections and in my opinion there's more than adequate parking. The development of this site in this manner would not be expected to have a significant impact on the roadway or the area. Mr. Fink asked Mr. Olivo if he had any discussions with Mr. Lieutenant Pollock or Mr. Meth, Townships Traffic Consultant. Mr. Olivo stated that his discussion with Lieutenant Pollock was hopefully a right in with both regards, whether it was the comments that were raised about the turning movements at the driveway, we provided a supplemental analysis that go deeper into whether those movements could be accommodated by the subject driveway where it is located. We also provided information about queuing and blocking and things of that nature. Mr. Olivo discussed Mr. Meth's comments from his report. Mr. Spialter reviewed Mr. Meth's report and requested a trip generation plan which will be submitted before the next meeting. Signage during certain hours limiting traffic to right in and right out and only left in and left out, full movement at non peak hours was discussed. Olivo: I would recommend that this driveway be a full movement driveway based on what we saw. *Existing driveways were discussed.* Mr. Fink stated that he will look into it regarding moving the driveways. Mr. Meth discussed

intersections at Westfield Avenue and Old Raritan Road and also Westfield Avenue and Terminal Avenue. Lieutenant Mike Pollock. You are proposing a full movement driveway. I've been here 25 years on a daily basis and I see what happens. If that traffic backs up slightly toward the driveway, it doesn't have to go beyond it or pass it or kill it. I find it unsafe to make a left hand turn out of there. You have no line of site of anything coming around that corner. I totally disagree with making a left out of there. I know there's a gap, you're going to have conflicting left and right hand turns coming out of Garside, you could have some making a left and some coming out of Cutler making a left at the same time. The capacity is 170 but the building is 10,000 sq. ft. building based on it being possibly at full capacity. We have to look at all possibilities as if everything's in play from a police prospective, from a traffic standpoint. I have to look at the traffic pattern, the impact and full capacity. Any left hand turn movement across any roadway is the most dangerous maneuver you could make. ***Discussion continued on full movement pattern during peak hours.***

This meeting is being carried to the January 25th. Public Meeting

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Chris Tierney and carried unanimously by voice vote. Meeting adjourned at 11:07 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Feb 22, 2016

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JANUARY 13, 2014

REORGANIZATION MINUTES

A public meeting of the Clark Board of Adjustment was called to order at 8:02 p.m. by Janet Gentry who was acting as Coordinator until a Chairman was elected. She asked all present to participate in a flag salute and moment of silence. She stated that this meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of meetings to the Union County Local Source, NJTODAY.NET and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz and Steve Kaminsky.

Members Absent: John Caliguire, Patrick Campione, William Helm

Also Present: Howard D. Spialter; Board Attorney and Janet Gentry Board Secretary

OLD BUSINESS

Mr. Spialter suggested to the Board that the minutes from the December 9, 2013 public meeting be carried over for review and vote to our next public meeting.

CORRESPONDENCE

Received by the Secretary of the Board was a memo from Edie Merkel, Township Clerk in reference to the appointment of a Board Attorney for 2014. Also from the Township Clerk is Resolution 14-21 stating that the Union County Local Source, NJTODAY.NET and the Star Ledger has been designated as the official newspapers of the Township of Clark for the Year 2014.

NEW BUSINESS
APPOINTMENTS

Edward Ruth brought a motion to nominate Steve Kaminsky for Chairman which was seconded by John Moricz. *Vote: all ayes.*

Thomas Meade brought a motion to nominate Doug Krok for Vice Chairman. Motion was seconded by Edward Ruth. *Vote: all ayes.*

Thomas Meade brought a motion to nominate Howard D. Spialter as Attorney to the Board which was unanimously seconded by the Board. *Vote: all ayes.*

John Tierney brought a motion to nominate Janet Gentry as Secretary to the Board which was seconded by Thomas Meade and carried unanimously by a unanimous vote.

Re-appointed Chairman Steve Kaminsky took over the meeting at this time.

ANNUAL REPORT

Board Members reviewed term expirations, hearing dates for 2014 and the Annual Report. Board Member Thomas Meade was sworn in by Board Attorney Howard Spialter and alternate member William Helm was previously sworn in by the Township Clerk since their terms have expired.

John Tierney brought a motion to accept the Annual Report for submission to Council. Motion was seconded by Edward Ruth and carried unanimously by voice vote.

DISCUSSIONS

Brief discussion by board members and secretary on up-coming applications.

ADJOURNMENT

Edward Ruth brought a motion to adjourn. Motion was seconded by John Tierney and carried unanimously by voice vote. Meeting adjourned at 8:40 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

January 27, 2014

Dated

MEMORANDUM

TO: MAYOR, TOWNSHIP COUNCIL AND PLANNING BOARD OF THE TOWNSHIP OF CLARK

FROM: ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF CLARK

RE: ANNUAL REPORT PURSUANT TO N.J.S.A. 40:55d-70.1

DATE: JANUARY 13, 2014

INTRODUCTION:

The Municipal Land Use Law, N.J.S.A. 40:55D-70.1, et seq.,

Provides, in pertinent part, as follows:

> The board of adjustment shall at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The board of adjustment shall send copies of the report and resolution to the governing body and planning board.
>
> N.J.S.A. 40:55d-70.1.

This report is made pursuant to the aforesaid statute.

REPORT FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2013:

The following applications were made to the Zoning Of Adjustment of the Township of Clark, New Jersey ("Board") in 2013 for variances seeking relief from the Revised General Ordinances of the Township of Clark, New Jersey:

APPLICANTS	VARIANCES
Richard & Susan Vigliotti 44 Stonehenge Terrace DISRICT: R-150	Rear Yard Variances Purpose: Rear Deck & Covered Patio *Granted*
Maria Francisco 140 Briarheath Lane DISTRICT: R-150	Lot Coverage, Pre-Existing Variances For Lot Area, Front Setback & Side Yard Purpose: Construct an Add-A-Level and Addition to the Front & Rear of Home *Granted*
Rosa & Carlos Rasoilo 90 Briarheath Lane DISTRICT R-150	Lot Coverage Purpose: Construct New One-Family Home *Denied*
Thomas Massarelli 45 Limoli Lane DISTRICT R-150	Lot Coverage. Pre-Existing Variances for Lot Area, Lot Width Side Yard & Total Side Yards Purpose: Additions to Rear of Home *Granted*
Vitor M. Soares 3 Partridge Run DISTRICT R-150	Rear Yard Setback Purpose: Construct a Pool House *Withdrawn*

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JANUARY 27, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:04 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, William Helm, John Caliguire and Steve Kaminsky

Members Absent: Patrick Campione, John Moricz (conflict of interest)

Also Present: Richard O'Connor, Township Engineer. Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the December 9, 2013 public meeting and January 13, 2014 reorganization meeting were reviewed. John Tierney brought a motion to accept the minutes. Motion was seconded by Edward Ruth and carried unanimously by voice vote

NEW BUSINESS

Board Member Edward Ruth who was absent at the last hearing has certified that he listened to the tapes for Calendar#8-13.

Calendar #8-13, Wireless EDGE Towers, LLC and New Cingular Wireless PCS, LLC (AT&T), 360 Central Avenue. Attorney for the applicant is Judith Fairweather with the law firm Pinilis Halpern LLP.

Ms. Fairweather: At the last meeting in December when we left off you had asked about the height of the other towers in the area.

John E. Arthur, Professional Engineer. Credentials were given to the board and accepted. Mr. Arthur explained to the board how he measured other towers in the area. In a letter dated January 24, 2014 Mr. Arthur stated that heights of the existing electric transmission towers adjacent to the subject property are approximately 142' above grade.

Board member Mr. Ruth asked several questions since he was absent at the last meeting and asked if some of these issues will be resolved. Mr. Spialter: The fence was discussed and if the Board was to approve the application and wanted a fence there, with or without slats, you could make that a condition of the approval with the type of fence, chain link, with slats or whatever. There was also a discussion with regard to some type of light on top of the tower and a question if the FAA has jurisdiction. Even if the FAA did not require such a light the board could impose that obligation and if the board had such an inclination would it be a red flashing light or a white flashing light, different height levels and not to distract for the residents who live in the area. Ms. Fairweather: All issues were brought up by your experts and we addressed them all. We designed and will put up bollards if the board remembers that because there were two units to the left. The traffic expert gave their opinion with the generator, if the board prefers, a gas line would be put in if you didn't want diesel. There was an issue with parking and the owner stated that they would stripe the parking spots so there wouldn't be parking especially around the back of the property to the right where there was a turn around and there would be no parking there. We addressed the issue of noise. With regard to the fence; if this fence is owned by the property owners we could easily have that as a condition of approval, if owned by the railroad we could only request. Mr. Spialter: if there is a fence there that's not owned by the property owners you could install another fence inside the property line. Ms. Fairweather: I believe we answered and addressed all of the issues you came up with and ask that you approve this application. *Parking in the back was discussed.* Kaminsky: Location of the generator, can that be placed inside the fence that's existing right now? Mr. Arthur: There is room in there but that would sacrifice that equipment space. Ms. Fairweather: which means that the carriers on one pole to collocate, then that would be one less carrier. Spialter: It appears that this would not necessarily impact upon your application, this would appear to raise concern that would have to be dealt with subsequent applications if in fact your application is approved and then other wireless carriers come in the future, I would only guess that the board would not give card blanche with this approval that any other wireless company could just come in and build. I'm sure the board is going to want to retain the right to review any subsequent build-out. The question is if the generator can accommodate your application and be within the fence, wouldn't that mean that if another wireless company wants to come in, the place that you want to put your generator now would be available to someone else, if and when another application comes forward as opposed to it being lost for all times, it would just be there for a second application. *A discussion continued between Mr. Kaminsky, Mr. O'Connor and Mr. Arthur regarding the placement of the generator.* Spialter: to bring this altogether, is it fair to say that if the board were to entertain a motion to approve and include as part of that as a condition the Chairman's concern about bringing the generator within your area, that can be done without any impediment to your application with your concern being solely of some potential issue for some other applicant, am I accurate? Mr. Arthur: yes, keep in mind that we are in the business for other carriers and we try to optimize the space that we have. Kaminsky: taking about other carriers, are they in contact right now for this location? Mr. Arthur: yes. Kaminsky: Would the applicant have a problem if we requested a 10' fence? Arthur: no. Kaminsky: Just trying to minimize the impact to the area. Tierney: bare pole? Arthur: yes, brown bare pole. Caliguire: height of pole will stay the same? Arthur: we don't plan on extending it.

Kaminsky: any other questions: none. Spialter: if there's going to be a motion to approve I just want to remind the board what my notes reflect for certain conditions that were discussed and that's not to tell you that you have to include them or don't have to include them. Kaminsky: statements from the public for or against? Spialter to Ms. Fairweather: This is your application, I don't want to preclude any issue with regard to pubic questions but technically the application was concluded at the last hearing so anyone who wanted to speak now; it has been extensively reopened for the purposes of addressing questions that the board wanted to address so I will leave it to you because it's your application. Fairweather: We were closed to the public and we came back for just a minor thing and were asked questions from someone who read the transcripts, I'm fine with it staying closed. Spialter: That being the case the matter is closed. If there was any desire for input from the public the applicant was given the opportunity if they wanted to have it addressed.

Ms. Collins, 72 Georgia Street. We weren't aware of this. We found it out in the Patch. Spialter: Helen Rokosny, that your name? Collins: no, it's the owner's name. Spialter: you're not the owner? Collins: I'm the daughter. Spialter: there are certain legal requirements for an applicant to have jurisdiction to bring a matter to this board. One of those is to give notice and to publish and notice is given in a manner that's dictated by the law. The applicant is given a listing of all property owners within 200', the tax assessor gives them a listing and then they have to give notice. A notice from a mailing point of view is that they show it was mailed by certified mail whether or not you received it. They don't have an obligation to prove that you get it; they have an obligation to prove that they mailed it and it goes to the property owner. A tenant is out of luck, there is no obligation for an applicant to try to go to each property and not only verify who owns the property but who is residing at the property. The law does not mandate such a requirement. So according to the applicant, from a mailing point of view, a mailing was sent to Helen Rokosny at 72 Georgia Street in Clark, N. J. 07066 and this was part of the initial process that we undertook at the last hearing to make sure that the jurisdictional requirements were met and if they were not met, the applicant would have never started their application, I would not have allowed that. The other thing they had to do is publish this in a newspaper that's authorized by the Town and they made such a publication. If you were not here at the last hearing and did not participate for whatever reason, that is not the fault of the applicant. They complied with their legal requirements for this board to have jurisdiction to hear this matter. The board concluded this application last time except for certain things that they wanted, additional information, which you heard yourself tonight. I asked the applicants attorney whether she wanted to, because there are certain different viewpoints as to whether the public should have further involvements at tonight's hearing and the applicant has more of a concern with that should something happen after tonight, so I deferred to the attorney for the applicant to see to what extent the applicant wanted to have the matter reopened for the public, they have declined that and are entitled to that. That's the legal standard. Kaminsky: will the board be back for site plan approval? Spialter: This is a permitted use, if this board approves this application, there will be further dealings with the Town Engineer and other personnel of the Town just to make sure that whatever is approved gets done the way it way ruled upon. *Several people from the audience asked Mr. Spialter questions:* Spialter: Just as a matter of law, if the Board approves this application there is a process of further notification, not individually, but a publication and the law then gives a certain window of time within which certain review can be undertaken and if you have any questions with regard to that, I suggest you speak with Council. I represent the Board; I do not represent anyone individually. If you have any questions from a legal prospective I suggest you speak with Council.

Mr. Ruth brought a motion to approve Calendar #8-13 with the following conditions: Lights FAA, lights on a one-hour timer, include no parking zone, signage, revised site plan, other carriers must come before the Board, generator testing, location of generator, gas line, drainage, color of pole to be brown.

Ms. Fairweather: condition for pole for lighting or FAA? O'Connor: I think what the board is doing is deferring to the FAA if lighting is necessary. I don't believe the Board wants lighting on top of it unless the FAA mandates it. Spialter: I believe that would be an accurate understanding of the board's position.

Mr. John Tierney seconded the motion. *Discussion of the Motion*: Mr. Tierney: I seconded the motion because I think it's a good location to provide a better service in a big gap area. It's in a good site because it's out of the way, it's in the back and I know you live next door but for the town it's a good site and we have been through this before. Also we discussed the pros and cons to the town's benefit or to the town's dis-benefit in this application, which you can go down to town hall and read it, they discussed this and the board is probably feeling that they have more benefits putting this pole there and providing a service. Your thoughts that you were trying to get out were considered, it's in the application process. Ruth: The reason I made the motion and similar to what John had said it is good for the town. Kaminsky: The only thing I would like to see added is the fence. O'Connor: you should place a height on that fence because someone looking at the property from a second or third floor window is going to be able to see far more than someone looking at it from ground level. Spialter: your request Mr. Kaminsky as the applicant has agreed is to install a 10' chain link fence with black vinyl slats. O'Connor: I believe that the discussions were that it was on the perimeter of the property and the internal were going to be without the slats to provide visibility. Kaminsky: there's a camera in back of the building, am I correct? Yes. Spialter: I heard the generator as part of the motion; no one has given what it's supposed to be for the purpose of the motion. O'Connor: I believe Mr. Kaminsky has asked Mr. Ruth to amend his motion to put the generator inside the compound. *Mr. Ruth amended his motion to include the fence and location of the generator to be in the compound. Mr. Tierney seconded the motion.*

Spialter: the details of the sign will be left for site plan approval? O'Connor: I believe there was specific testimony as to size and content of the sign at the hearing, it's a relatively small sign, just delineating the address. Kaminsky: the other question I have is the parking issue and striping. O'Connor: the board is within its right to request that the area get striped for fire zone or for no parking or whatever purpose. From an aesthetic standpoint were taking about a 30 or 40' wide stretch of asphalt. To stripe that entire area as no parking would be an aesthetic concern. But to put a five or six foot width adjacent to the fence and put that for no parking, I think would be appropriate or for fire zone if the fire department wanted it. I would prefer that the board limit the striping to something less than 10' to the fence rather than stripe the entire area and leave the rest to zoning and enforcement issues. Spialter: a no-parking striped area recommended of 5' from internal fence from the northeast side of property from the rear of property to compound. *Mr. Ruth amended his motion to include the no parking area and Mr. Tierney seconded the motion.*

Kaminsky: the bollard that was discussed earlier, was that a condition? O'Connor: you need to add one bollard as a condition. It's not shown on the site plan. Since the generator is moving inside the compound I would like to have the discretion of eliminating the bollard if I believe it's appropriate. I have some concerns about vehicles driving in a narrow area. I'm also concerned about the ability for people trying to access those bay doors; however small they are, I would like to have a discussion with the applicant on whether a bollard remains appropriate. Spialter: It sounds like the resolution includes the concept that the erection and location of a bollard will be at the discretion of the Township Engineer. *Mr. Ruth amended his motion. John Tierney seconded the motion.*

Helm: We talked about collocation and whether they would be required to come back to the board or not. O'Connor: the differentiation there is co-locators might be able to seek minor site plan approval which would not require a trip back to this Board but would require that they go through an internal municipal process. So if the board is placing a condition that future co-locators must return here, the board is just stating that they want to retain jurisdiction and see those applications which will preclude a minor at some point in the future. Spialter: I believe that's what Mr. Ruth was alluding to in his motion and was seconded, correct? Ruth: Yes.

Commentary: Ruth: I'm in favor of this application and approve it subject to the conditions that were outlined here. Again, it's good for the town, the site, and what's proposed makes sense. Krok: I will be voting to approve this application also. I feel it's a good location for this tower, it's an approved use for that area and we put quit a few stipulations on there to make it aesthetically pleasing and took in a lot of consideration to the neighbors there. Meade: I will be voting against this application. I feel the pole is too high and with the surrounding poles it just seems unnecessary to go that high. I'm concerned about jamming it into this small spot. Although the Township of Clark is limited in locations, I do think that these issues are a concern to me and I don't feel comfortable to approve it because of these issues. Tierney: application has been presented; it had its pros and cons in it. We had some experience with antennas. This looks like a good location, it's does fill almost entirely a wireless gap in the town that we heard about before and the location is not in a residential area so you're not going to notice it too much in the back, certainly only the neighbors will see a tower back there and your only looking at the towers on the railroad. It not a huge addition to their problems, if you will, I just thought it was a good application. Helm: I will be looking to approve the application also. I'm not going to repeat all the reasons but I agree with all the reasons outlined. We had discussion at the last meeting, pretty much spent the entire three hours going through and really challenging everything we felt needed to be challenged and that resulted in all the conditions now. It is probably one of the best locations we can have in Clark. There is a gap and for anyone who wasn't at the last meeting who may have any concerns about safety, there is a detailed report that made it obvious that it's absolutely not a concern. We didn't talk about that tonight but for the people who weren't here last time for your benefit that was a consideration, it's a non-issue. Caliguire: I will be voting in favor of the application. I believe it's a better location then other locations that were given in the past. I do feel more comfortable with all these conditions. Kaminsky: I also will be voting in favor of the application. I think the applicant was willing to work with us on this application, with all the conditions that we have. We tried to minimize any impact on the residents in the area as much as we possibly could. Basically you will see the pole itself; not any of the structures below it or the mechanics that go with it. There was definitely a proven need for it and I will be voting for the application. *Vote: Ruth: yes. Krok: yes. Meade: no. Tierney: yes. Helm: yes. Caliguire: yes. Kaminsky: yes.* Application Approved.

RECESS

Mr. Krok brought a motion for a 5-minute recess. Motion was seconded by John Caliguire and carried unanimously by voice vote. Time was 9:30 p. m.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, William Helm, John Caliguire and Steve Kaminsky

Members Absent: Patrick Campione, John Moricz

Also Present: Attorney Howard D. Spialter and Board Secretary; Janet Gentry

NEW BUSINESS CONTINUED

Calendar #3-14, Antonio & Maria Ribeiro, 32 Stemmer Drive. Mr. Spialter reviewed proof of service and notices. Mr. Spialter stated that they did not notice the utility companies. Ms. Ribeiro said that she did not receive a list of the utility companies. *This application has been carried to the February 24, 2014 public meeting due to improper noticing*

RESOLUTIONS

Calendar #1-14, Reorganization Meeting. Attorney Spialter read onto the record Resolution 1-R-14. John Moricz brought a motion to accept the resolution as read. Motion was seconded by Edward Ruth and carried unanimously by voice vote.

Calendar #2-14, Annual Report, Attorney Spialter read onto the record Resolution 2-R-14. John Tierney brought a motion to accept the resolution as read. Motion was seconded by Edward Ruth and carried unanimously by voice vote.

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Caliguire and carried unanimously by voice vote. Meeting adjourned at 10:57 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Feb 24, 2014

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, FEBRUARY 24, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:03 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, John Tierney, John Caliguire, William Helm and Steve Kaminsky

Board member John Moricz arrived shortly after roll call

Members Absent: Thomas Meade and Douglas Krok

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the January 27, 2014 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Tierney and carried unanimously by voice vote

CORRESPONDENCE

Board Member Patrick Campione submitted a letter stating that he was resigning from the Board. Also was a letter from Carlin & Ward regarding application 4-14 that was scheduled for tonight. They requested adjournment to next month and extended the 120-days. Letters from Police and Fire Departments regarding Calendar #4-14 ~~were~~ also enclosed,

NEW BUSINESS

Calendar #3-14, Antonio & Maria Ribeiro, 32 Stemmer Drive. Mrs. Ribeiro and George Sincox, Architect & Planner from Westfield were both sworn in by Board Attorney Howard Spialter. Spialter reviewed proof of mailings: If you recall we had some jurisdictional issues last time, the applicant was not given the proper information with regards to notice that is required to the various public entities. They did not have to re-notice people or re-publish so from a jurisdictional point of view we are ready to proceed.

George Sincox, Architect and Planner. Mr. Sincox stated that the existing home is less than 1,100 sq. ft. In order to modernize it and give them their living needs we need to do an expansion by adding 792 sq. ft. which would bring it up to less than 2,000 sq. ft. The zoning issues encountered as we started to do this were that we have a couple of hardships, we have a corner lot which means that we have two front setbacks and the other is that we have an undersized lot which compounds the problem with setbacks, coverage, etc. We do have two existing non-conformities which is the lot size itself, we have 12,165 sq. ft. where 15,000 sq., is required. We have a side yard setback of 6' where 15' is required. We will want to expand in that area but will not increase that non-conformity. The variances that are required are for our front yards but we have an existing front yard setback on one street of 44.8' where 46.92' is required, we will encroach there and bring it to 41.80'. The other front yard we have an existing front yard of 34.9', 40' is required and we will be bringing that to 31.9', another 3' change on the front yard setbacks. The last variance we are requesting is for lot coverage, the zone requires maximum of 15%, currently the one story structure has 13.1% and with the additions it will bring it up to 19.96%. We looked at other possibilities as we were doing this and it is possible to increase the size of the house by adding a second floor as opposed to going out, but these folks would like to stay here without having to compound any future issues that may come up with the stairs. Also, the neighborhood is primarily single family homes. *Large board with several pictures of homes in the neighborhood were marked as Exhibit A1 and marked as Exhibit A2 was a large colored photo of the proposed home.* In terms of the lot coverage, if we had a conforming lot size of 15,000 sq. ft., we would still require a variance but it wouldn't be a variance from 15% to 19.96, it would be a variance required from 15% to 16%.

Questions from board members: Kaminsky: I see you are moving the driveway. Yes, there's less coverage with the entrance in the front. *Location of new driveway was discussed.* Tierney: you're expanding the garage an additional 3'? Yes, the garage will be modified and made useful. Tierney: adding 1' to the front? Just 3' which actually creates the encroachment due to the covered porch. Ruth: If you were to reduce the patio in the back, would that give less of a hardship on coverage? No, that would actually be impervious coverage. Tierney: no additional space being used on second level? No, that's just storage area. *Discussion on front porch and steps, existing and proposed.*

Commentary: If we were a compliant lot, not a corner lot, we probably would not have an issue here at all. It's really the hardships that got us here today

for these variances. Knowing that; we request that you grant the variances that we have listed.

Questioning to Mrs. Ribeiro. Kaminsky: are you living at the house now? No, not at this moment. Helm: Is home being occupied now? No. Kaminsky: your application say's that you live here. Ribeiro: when we did the closing we lived there for a couple of days. Kaminsky: where are you living now? In Newark. Tierney: did you recently purchase the house? In June of last year. Tierney: so you haven't lived there? Just for a couple of weeks. Tierney: do you intend to live there? Yes, that will be our main home.

Public in Favor of Application
Public against this Application (no one present in audience)

Mr. Tierney brought a motion to approve Calendar #3-14. Motion was seconded by John Caliguire. ***Vote: All Ayes. (Granted)***

Mr. John Tierney brought a motion to waive the 45-day waiting period. Motion was seconded by John Tierney and carried unanimously by voice vote. ***All Ayes***

RESOLUTION

Calendar #8-13, Wireless EDGE Towers, LLC and New Cingular Wireless PCS, LLC (AT&T) ("Applicant"), 360 Central Avenue. Board Attorney Spialter read onto the record Resolution 3-R-14. Edward Ruth brought a motion to accept the resolution as read. Motion was seconded by John Tierney. ***Vote in Favor: Ruth, Tierney, Caliguire, Helm and Kaminsky***

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Edward Ruth and carried unanimously by voice vote. Meeting adjourned at 9:02 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

March 24, 2014

Dated

CERTIFIED TRANSCRIPT
OF PROCEEDINGS ATTACHED

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, MARCH 24, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:08 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, John Tierney, William Helm, John Moricz, Thomas Meade and Steve Kaminsky

Members Absent: Douglas Krok, John Caliguire

Also Present: Richard O'Connor, Township Engineer. Kevin O'Brien, Township Planner, Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the February 24, 2014 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Mr. Tierney requested a change be made to the minutes. Mr. Ruth made a motion to accept the minutes as amended. Motion was seconded by John Tierney and carried unanimously by voice vote

NEW BUSINESS

Calendar #4-14, Iselin Realty, Inc., 1208 Central Avenue. Mr. James Turteltaub is the Attorney representing the Applicant from the law office of Carlin & Ward.

Also present was Emily Weiner from Weiner Lesniak, on behalf of the objector, 1180 Raritan, LLC, owners of the property located at 1180 Raritan Road, the shopping center with Barnes & Noble behind the subject property. *Discussion took place regarding the notice.*

The following witnesses were sworn in and gave testimony.

John W. Sarafin, Mr. Sarafin is the owner, purchased the property in 1946 with his father and operated it as a service station for forty years and then started leasing it.

Exhibits Marked:

***A1*, Bankruptcy petition dated 12/5/11**
***A2*, Entitled: Order authorizing rejection of certain unexpired non-residential real property leases as of April 5, 2012**
***A3*: Order entered May 3, 2013 entitled: Stipulation and order governing removal of tanks located at 1208 Raritan Road, Clark, N. J.**
***A4*: Deed**

Witness: William Groeling, Mr. Groeling stated that he works for his own company, Site Remediation Group and is the president of that company. Mr. Groeling specializes in LSRP services, environmental consulting. He was accepted as an expert in underground storage tank remediation, as well as LSRP.

Witness: John Palus is employed by Dynamic Engineering. He is the principal of the company. Mr. Palus stated that he owns the company and as a professional engineer he oversees projects from start to finish. Mr. Palus is a licensed professional engineer in the State of New Jersey, New York, Pennsylvania and Texas. He is also a licensed professional planner in the State of New Jersey.

Exhibits Marked:

***A5*: Land title survey prepared by FRD Surveying, LLC, it was submitted as part of the application to the board.**
***A6:* Aerial map dated March 24, 2014. This is a colored version of the black and white aerial that was submitted as part of the site plan drawings.**
***A7:* A colored site plan rendering dated March 24, 2014. This is a colored version of the landscape plan overlaying on top of the site plan drawing and then colored. This reflects the drawings that were submitted to the Board.**

Witness: Justin Taylor, Mr. Taylor is the principal in the firm of Dynamic Traffic. He prepares traffic impact studies, studies for DOT, signal analysis, basically all aspects of traffic analysis. Mr. Taylor is a licensed engineer in the State of New Jersey and in Pennsylvania. He is a professional traffic operations engineer licensed by the institute of Transportation Engineers. The Board accepted his credentials as an expert witness in the field of traffic engineer and field of traffic transportation engineering.

Exhibit Marked:
***A8*: A vehicle circulation exhibit which is a truck turning template placed onto the proposed layout of the site.**

Ms. Weiner and Bill Caruso asked questions of the witnesses.

Mr. Turteltaub agreed to extend the 120-days to the June 30, 2014

ADJOURNMENT

Edward Ruth brought a motion to adjourn. Motion was seconded by John Tierney and carried unanimously by voice vote. Meeting adjourned at 11:06 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

May 6, 2014

Dated

A transcript of this meeting is available the Construction Office in Town Hall

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

THURSDAY, APRIL 10, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Board Attorney Howard Spialter. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, John Tierney, John Caliguire, William Helm and John Moricz

Members Absent: Doug Krok, Thomas Meade and Chairman Steve Kaminsky

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Due to the lengthy transcript from the March 24th public meeting, board members agreed to read/review the transcript for our next meeting.

RESOLUTION

Calendar #3-14, Antonio & Maria Ribeiro, 32 Stemmer Drive. Board Attorney Spialter read onto the record Resolution 4-R-14. John Tierney brought a motion to accept the resolution as read. Motion was seconded by John Caliguire.
Vote in Favor: Ruth, Tierney, Caliguire, Helm and Moricz

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Edward Ruth and carried unanimously by voice vote. Meeting adjourned at 8:30 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

May 6, 2014

Dated

CERTIFIED TRANSCRIPT
OF PROCEEDINGS ATTACHED

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

TUESDAY, MAY 6, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:10 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, John Moricz, John Tierney, John Caliguire, William Helm and Steve Kaminsky

Members Absent: Thomas Meade

Also Present: Richard O'Connor, Township Engineer. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the March 24, 2014 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Caliguire and carried unanimously by voice vote.

Minutes from the April 10, 2014 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by John Tierney and carried unanimously by voice vote.

NEW BUSINESS

Mr. Caliguire and Mr. Krok have both certified that they have read the transcript of Iselin Realty, Inc., 1208 Central Avenue due to their absence on March 24, 2014.

Calendar #4-14, Iselin Realty, Inc., 1208 Central Avenue. Mr. James Turteltaub is the Attorney representing the Applicant from the law office of Carlin & Ward.

Also present was Emily Weiner from Weiner Lesniak, on behalf of the objector, 1180 Raritan, LLC, owners of the property located at 1180 Raritan Road, the shopping center with Barnes & Noble behind the subject property.

Board members voted on the issue of abandonment. *Spialter:* A yes vote is that the use *was not* abandoned. A no vote is that the use *was* abandoned. Mr. Moricz brought a motion that the use was not abandoned. Motion was seconded by Ed Ruth. Vote: Ruth: yes. Krok: yes. Moricz: yes. Tierney: no. Caliguire: no. Helm: yes. Kaminsky: yes.

Spialter: It appears to me by a five to two vote; that the issue of abandonment has been found not to exist by the Board. The Board is proceeding that this is a preexisting nonconforming use with whatever statutory criteria are associated therewith in connection with this application.

RECESS

Edward Ruth brought a motion to take a 5-minute recess. Motion was seconded by John Caliguire and carried unanimously by voice vote.

ROLL CALL

Ed Ruth, Doug Krok, John Moricz, John Tierney, John Caliguire, William Helm and Steve Kaminsky

Also Present: Richard O'Connor, Township Engineer. Howard D. Spialter; Board Attorney and Janet Gentry, Board Secretary

NEW BUSINESS CONTINUED

The following witnesses were sworn in and gave testimony.

John McDonough, Professional Planner and Landscape Architect

Justin Taylor, Traffic Engineer was previously sworn in.

Exhibits Marked:
***A9*, Aerial Photo, handout that shows site conditions, surrounding neighborhood, three part exhibit submitted by Mr. McDonough.**

Mr. Turteltaub agreed to extend the 120-days to the July 31, 2014

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Caliguire and carried unanimously by voice vote. Meeting adjourned at 10:50 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

July 28, 2014

Dated

A transcript of this meeting is available the Construction Office in Town Hall

CERTIFIED TRANSCRIPT
OF PROCEEDINGS ATTACHED

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JUNE 23, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Moricz, John Tierney, John Caliguire and Steve Kaminsky

Members Absent: William Helm

Also Present: Edward Bogan, sitting in for Mr. O'Connor from Grotto Engineering. Kevin O'Brien, Planner for the Board. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Mr. Tierney made of motion to postpone voting on the minutes until the next board meeting. Motion was seconded by Edward Ruth and carried unanimously by voice vote.

NEW BUSINESS

Mr. Thomas Meade has certified that he has read the transcript of Iselin Realty, Inc., 1208 Central Avenue due to his absence on May 6, 2014.

Calendar #4-14, Iselin Realty, Inc., 1208 Central Avenue. Mr. James Turteltaub is the Attorney representing the Applicant from the law office of Carlin & Ward.

Exhibits Marked:
***A10,* Aerial Photo**
***A11,* Portion of the minutes from the Clark Zoning Board dated July 28, 1975**
A12, Zoning Resolution12-75 dated 9/10/75

Also present was Emily Weiner from Weiner Lesniak, on behalf of the objector, 1180 Raritan, LLC, owners of the property located at 1180 Raritan Road, the shopping center with Barnes & Noble behind the subject property.

Witnesses: Scott Parker: Traffic Expert. Licensed in New Jersey as a Professional Engineer and employed by Jacobs Engineering Group.

Peter Vandenkooy from CME Associates. Licensed Professional Planner In the State of New Jersey

Mr. Turteltaub agreed to extend the 120-days to the end of August, 2014

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Thomas Meade and carried unanimously by voice vote. Meeting adjourned at 10:25 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

July 28, 2014
Dated

A transcript of this meeting is available the Construction Office in Town Hall

CERTIFIED TRANSCRIPT
OF PROCEEDINGS ATTACHED

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JULY 28, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:10 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, William Helm, John Moricz and Steve Kaminsky

Members Absent: John Caliguire

Also Present: Richard O'Connor, Township Engineer, Kevin O'Brien, Planner for the Board. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Mr. Tierney brought a motion to accept the minutes of May 6 and June 23, 2014. Motion was seconded by Thomas Meade and carried unanimously by voice vote.

NEW BUSINESS

Mr. William Helm has certified that he has read the transcript of Iselin Realty, Inc., 1208 Central Avenue due to his absence on June 23, 2014.

The following Board Members were sworn in and signed their Oath of Allegiance. John Moricz has been elevated to a regular member of the board. William Helm is now alternate I member and Christopher Tierney is our new member of the board and has become alternated member II.

Calendar #4-14, Iselin Realty, Inc., 1208 Central Avenue. Mr. James Turteltaub is the Attorney representing the Applicant from the law office of Carlin & Ward. This application has been carried from the public meeting on June 23, 2014.

Also present was Emily Weiner from Weiner Lesniak, on behalf of the objector, 1180 Raritan, LLC, owners of the property located at 1180 Raritan Road, the shopping center with Barnes & Noble behind the subject property.

Mr. Tierney brought a motion to deny the application; motion was seconded by Thomas Meade. All members gave detailed commentary. *Vote*: Ruth: no, Krok: yes, Meade: yes, Tierney: yes, Helm: no, Moricz: no, Kaminsky: no.

The Board discussed in length several concerns and conditions before another motion were made.

Ed Ruth brought a motion to approve the application with conditions. Mr. William Helm seconded the motion. *Vote:* Ruth: Yes, Krok: no, Meade: no, Tierney: no, Helm: yes, Moricz: yes, Kaminsky: yes. *Application denied*

RECESS

Mr. Tierney brought a motion for a 10-minutes recess. Motion was seconded by Ed Ruth and carried unanimously by voice vote.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, William Helm, John Moricz and Steve Kaminsky

Members Absent: John Caliguire

Also Present: Richard O'Connor, Township Engineer, Kevin O'Brien, Planner for the Board. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

NEW BUSINESS CONTINUED

Mr. Turtletaub: I would like to provide some legal authority to Mr. Spialter and discuss the issue, possibly either asking this Board to reconsider its vote tonight, based upon some issues that we find have been decided in a manner which is not consistent with the D-2 variance which is before this Board and/or reopen the hearing itself.

Chairman Kaminsky: In the present state of the application, we had a motion for a denial which failed. It appears that we had a motion for acceptance which also failed. Where does that leave us?

Spialter: The present state of the application, in accordance with New Jersey statute 40:55D-9(a), the motion to approve which did not meet the super majority, did not obtain the five votes, became a denial of the application. In the absence of any further activity of the Board, at the moment the application stands denied.

This application has been carried to the September 22, 2014 hearing as requested by the applicant's attorney Mr. Turtletaub.

Mr. Turtletaub agreed to another extension of the 120-days.

ADJOURNMENT

Ed Ruth brought a motion to adjourn. Motion was seconded by Thomas Meade and carried unanimously by voice vote. Meeting adjourned at 10:40 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Sept 22, 2014

Dated

A transcript of this meeting is available the Construction Office in Town Hall

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, AUGUST 25, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:15 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Douglas Krok, Chris Tierney, Thomas Meade, John Tierney, William Helm, John Moricz and Chairman Steve Kaminsky

Members Absent: Edward Ruth and John Caliguire

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Board agreed to postpone voting on the minutes of July 28, 2014.

NEW BUSINESS

Calendar #5-14 Kyle & Michele Harrington, 31 Meadow Road. Mr. Spialter stated that he requires a copy of this notice as seen in the I-phone. It must have an affidavit attached to it that says it actually was in the publication. John Tierney brought a motion to table this matter until later this evening. Mr. Harrington will bring back a copy of the publication. Motion was seconded by Doug Krok and carried unanimously by voice vote.

Calendar#6-14, Nicholas Calhoun, 68 Hall Drive. Mr. Spialter stated that notices were in order. Mr. Calhoun stated that he is seeking a lot coverage variance, permitted is 15% and they would be at approximately 18%. We are doing a second level addition to our house and we have a corner lot property. Due to aesthetics we would like to add a wraparound porch to our house but it adds to our lot coverage. Questions from Board Members: Mr. Kaminsky: There is a master bedroom and second bedroom downstairs and the other bedrooms will be on second level?

Calhoun: The architect just left master bedroom in there but that will be my office, I work from home and the other bedroom will be our child's playroom. Kaminsky: does the wrap around porch include lot coverage? Calhoun: yes. Kaminsky: your neighbors, do most have ranches? Calhoun: no, I actually have pictures. *Pictures of homes in the surrounding area were marked as Exhibit A1.* Mr. Calhoun stated that there are only about three ranches left on the street. *Board members discussed the setback on this corner lot.* Mr. Tierney stated that he should get something from the Construction Office that a variance would not be required for the setback. The secretary stated that Mr. O'Connor calculated the corner lot setback and determined it would not require a variance. *Kaminsky:* I would like to make a condition that you do not enclose that porch in. Calhoun: I have no problem with that.

Statements from the Public: Steve Brophy, 74 Hall Drive stated that he just wanted to say he is in support of the application. Mr. Brophy lives across the street. Mary Melick, 91 Stonehenge Terrace stated that she thinks this is a great addition that their doing. Lori McSorley, 62 Hall Drive stated that she lives right behind the Calhoun's and I think it would really improve the look in the neighborhood.

Thomas Meade brought a motion to approve Calendar #6-14. Motion was seconded by William Helm. Discussion on Motion: Kaminsky: I request that the wrap around portion not be closed in. Mr. Meade and Mr. Helm agreed to amend their motions. Krok: I would be in favor, I think it fits in with other houses in the neighborhood and the lot coverage issue is as minimal as he can make it. Chris Tierney: I would be voting in favor of the application. Because it's a corner lot I think this porch will fit in fine. Meade: in favor of this application. John Tierney: I think it's going to be a nice house. Helm: corner lot makes it just right for the front porch. Moricz: in favor of the application. Kaminsky: I'm also in favor of the application. *Vote: All Ayes.*

Mr. Meade brought a motion to waive the 45-day waiting period. Motion was seconded by William Helm and carried unanimously by voice vote.

Calendar #5-14, Kyle & Michele Harrington, 31 Meadow Road. Mr. Spialter: This gentleman can proceed with his application but I will caution the board not to conclude this hearing tonight pending Mr. Harrington to provide the affidavit of publication from the newspaper. Board members agreed to hear the application.

Mr. Harrington: We are proposing a one-story family room addition on the rear of the house and a bathroom incorporated into that. The only bathroom downstairs is the one in our bedroom. We have an extended family and are trying to get some more space because it's a very small cape-cod home.

Witness: Paritosh Kumar, P.K. Architecture, 472 Westfield Avenue, Clark. Licensed Architect in New Jersey and New York. Kumar: It's a large lot and in this area there are large homes but compared to that, this house is small. His family is

growing and has several issues with having events. He has a real need for another bathroom. What we are asking for is a side yard setback of 10'. The relief for lot coverage is about 3% more. Many of the homes in the area have these kinds of additions in the back. It's minimal relief that he's looking for. The addition in the back would be 22' by 34.6" in one corner and is basically a box but it's an addition in the back which will not be visible from the front. The two variances that are required is side setback and lot coverage.

Questions from members: What is the distance between houses? <u>Harrington</u>: guessing about 15'. How long have you lived at this address? About 12 years. *A lengthy discussion took place regarding the location of the addition between the Applicant, Mr. Kumar and Board Members.* <u>Spialter:</u> the question was whether or not you would consider, the comment raised was that if it's reduced by moving it over 5', it's possible you may not need any variances because the side yard would come in 5' and you would be eliminating some of the family room. The board was asking if that concept had been considered by you and your architect. <u>Harrington</u>: We would like to keep our deck there. It is not that large and five feet would be a lot and half of the furniture would have to go. *A discussion took place between the architect and members.* <u>Mr. Kumar</u>: Moving this addition in becomes really expensive and not easy to do. There are a lot of issues that need to be looked at. *Board members and applicant discussed the distance between homes.* Mr. Tierney stated that there must be 15' between homes. <u>Harrington</u>: I appreciate all the ideas; I'm trying not to change the plans because it's very expensive for me. It's a simple design and no one is here objecting to it. *Discussion on moving the addition in continued.* <u>Mr. Spialter</u>: The board will vote upon your application, the board can make comments as to concerns that are presented by your application. You can then after hearing the comments; agree with them, disagree with them or adjourn the matter which you have to do any way since you don't have the proof of publication tonight. If the board's concerns find their way into a resolution denying your application then you have nothing. If the boards concerns are found by you and your architect to be of sufficient merit that you can alter your proposal, the alter of the proposal as we have discussed might mitigate the need for any variances or mitigate only the side yard variance and you would only have a lot coverage variance.

John Tierney brought a motion to adjourn this matter to the September 22nd. Motion was second by Chris Tierney and carried unanimously by voice vote.

<u>ADJOURNMENT</u>

John Tierney brought a motion to adjourn. Motion was seconded by Douglas Krok and carried unanimously by voice vote. Meeting adjourned at 9:45 p.m.

Taken and Transcribed by:

Janet Gut[illegible]

Sept 22, 2014

Janet Gentry-Secretary Janet Gentry

Dated 9/22/14

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, SEPTEMBER 22, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:07 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz, William Helm and Chairman Steve Kaminsky

Members Absent: John Caliguire

Also Present: Alternate member Chris Tierney. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the July 28, 2014 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by Thomas Meade and carried unanimously by voice vote.

Minutes from the August 25, 2014 public meeting were reviewed. John Tierney brought a motion to accept the minutes. Motion was seconded by Douglas Krok and carried unanimously by voice vote.

RESOLUTIONS

Calendar #4-14, Iselin Realty, Inc. 1208 Central Avenue. Board Attorney Howard Spialter read onto the record Resolution 5-R-14, *that the use was not abandoned.* Ed Ruth brought a motion to accept the resolution as read. Motion was seconded by John Moricz. *Vote:* Ruth: yes. Krok: yes. Moricz: yes. Helm: yes, Kaminsky: yes.

Calendar #4-14, Iselin Realty, Inc. 1208 Central Avenue, Board Attorney Howard Spialter read onto the record Resolution 6-R-14, *denying application for the*

totality of the case and the Boards decision with regard to the relief sought by the applicant. **John Tierney brought a motion to accept the resolution as read. Motion was seconded by Thomas Meade.** ***Vote:*** **Krok: yes. Meade: yes. Tierney: yes.**

FIVE MINUTES RECESS

Edward Ruth brought a motion to take a 5-minute recess. Motion was seconded by John Tierney and carried unanimously by voice vote.

ROLL CALL

Board member Ed Ruth stepped down due to his absence for the following application and alternate member Chris Tierney took his seat.

Members Present: Douglas Krok, Thomas Meade, John Tierney, John Moricz, William Helm, Chris Tierney and Chairman Steve Kaminsky

Members Absent: John Caliguire

Also Present: Board member Ed Ruth. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

Calendar #5-14 Kyle & Michele Harrington, 31 Meadow Road. Mr. Harrington submitted his proof of publication. Mr. Harrington requested carrying his application over to another month so he can come up with a better plan and fair budget. It will give him more time to consult with his architect and builder. He stated that his new plans may not need a variance. Spialter: my suggestion would be that you withdraw your application without prejudice which would mean that as far as this application is presented it's over. Since your contemplating a plan with no variances you would not come before this board anyway. I'm concerned about just adjourning this matter because of the way we got off the ground without the affidavit of publication in place and that something that you might present, if it needed any variances, from a legal notice point of view; I would probably recommend that you would have to re-notice everyone anyway because your plans would be different. If you bring this matter back and it's resolved with prejudice then you have to wait a year before you can bring it back, but without prejudice you don't have to wait that one year period. ***Mr. Harrington agreed to withdraw his application without prejudice.***

RESOLUTIONS CONTINUED

Calendar #6-14, Nicholas Calhoun, 68 Hall Drive. Mr. Spialter read onto the record Resolution 7-R-14. Doug Krok brought a motion to accept the resolution as read. Motion was seconded by Thomas Meade. ***Vote: all ayes.***

ADJOURNMENT

John Moricz brought a motion to adjourn. Motion was seconded by Douglas Krok and carried unanimously by voice vote. Meeting adjourned at 8:45 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Oct 16, 2014

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

THURSDAY, OCTOBER 16, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:12 p.m. by Vice Chairman John Tierney. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Thomas Meade, John Caliguire, John Moricz, Chris Tierney and John Tierney

Members Absent: Douglas Krok, William Helm and Steve Kaminsky

Also Present: Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

NEW BUSINESS

Board members discussed several sections of the Clark Zoning Ordinances. Board members analyzed potential recommendations to Town Council regarding various zoning issues and matters to be considered for implementation. Some areas of discussion pertained to abandonment, non-conforming lots and non-conforming uses. Corner lot setback ordinance was discussed along with garage requirements. *Several other issues were discussed*

ADJOURNMENT

Chris Tierney brought a motion to adjourn. Motion was seconded by John Tierney and carried unanimously by voice vote. Meeting adjourned at 9:17 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Dec 8, 2014

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, DECEMBER 8, 2014

A public meeting of the Clark Board of Adjustment was called to order at 8:07 p.m. by Chairman Steve Kaminsky. He asked all present to participate in a flag salute and moment of silence. He stated that meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the "Open Public Meetings Act" as adequate notice of this meeting has been provided by mailing the Annual Schedule of Meetings to the Union County Local Source, NJToday.Net and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

ROLL CALL

Members Present: Edward Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz, William Helm and Chairman Steve Kaminsky

Members Absent: John Caliguire

Also Present: Alternate member Chris Tierney. Board Attorney Howard D. Spialter and Board Secretary; Janet Gentry

OLD BUSINESS

Minutes from the October 16, 2014 public meeting were reviewed. Ed Ruth brought a motion to accept the minutes. Motion was seconded by Thomas Meade and carried unanimously by voice vote.

PRIVATE SESSION

John Tierney brought a motion to go into private session to discuss litigation. Motion was seconded by William Helm and carried unanimously by voice vote.

Ed Ruth brought a motion to come out of private session. Motion was seconded by John Tierney and carried unanimously by voice vote.

ROLL CALL

Members Present: Ed Ruth, Douglas Krok, Thomas Meade, John Tierney, John Moricz, William Helm and Chairman Steve Kaminsky

Members Absent: John Caliguire

Also Present: Alternate Board Member Chris Tierney. Also present Attorney Howard D. Spialter and Board Secretary; Janet Gentry

ADJOURNMENT

Thomas Mead brought a motion to adjourn. Motion was seconded by William Helmand carried unanimously by voice vote. Meeting adjourned at 9:05 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

January 12, 2015

Dated