CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JANUARY 23, 2017

REORGANIZATION MINUTES

A public meeting of the Clark Board of Adjustment was called to order at 8:04 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, 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, Steve Kaminsky

Members Absent: John Caliguire

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

OLD BUSINESS

Correspondence was read onto the record and made available to all Board Members for their perusal. The Chairman asked the board secretary to find out if the correspondence received by the Board; Resolution 17-24 meant that an applicant must notice TAP into Clark. The secretary did discuss this with the Township Clerk and was told that only one of these were required, Union County Local Source or Star Ledger for a legal notice.

NEW BUSINESS

APPOINTMENTS

Edward Ruth brought a motion to nominate Steve Kaminsky for Chairman which was seconded by John Tierney and carried unanimously.

Steve Kaminsky brought a motion to nominate Edward Ruth for Vice Chairman. Motion was seconded by John Moricz and carried unanimously.

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

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

Reappointed Chairman, Steve Kaminsky took over the meeting at this time.

ANNUAL REPORT

All Board Members reviewed term expirations, hearing dates for 2017 and the Annual Report. Members Steve Kaminsky, John Tierney, William Helm and Chris Tierney were sworn in by Mr. Spialter because their term had expired. John Caliguire whose term also expired was absent.

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

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Douglas Krok and carried unanimously by voice vote. Meeting adjourned at 8:02 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

May 22, 2017

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 23, 2017

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, 2016:

The following applications were made to the Zoning Of Adjustment of the Township of Clark, New Jersey ("Board") in 2016 for variances seeking relief from the Revised General Ordinances of the Township of Clark, New Jersey:

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APPLICANTS	VARIANCES
Iselin Realty, LLC 1208 Central Avenue DISTRICT CI	Issue of Abandonment *Previously 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 *Granted (litigation settlement)*
V & R Developers, Inc. 1132 Westfield Avenue DISTRICT RTH	Purpose: Construction of a child care center. Use Variance and bulk variances requested *Denied*
Nicola & Maryann Gerbino 53 Sweetbriar Drive DISTRICT R-150	Purpose: Two story addition and second story addition. *Variances: Front Setback,* side-yard, total both side-yards Lot coverage *Granted*
Robert & Gretchen Kowalski 125 Dorset Drive DISTRICT R-150	Purpose: Construct 2-car garage attached to existing dwelling. *Variances:* Side yard, total Side-yards, lot coverage *Granted* Purpose:continue use of an accessory structure *Variance:* rear yard setback *Granted*

APPLICANTS	VARIANCES
Antonio & Maria Riberio 32 Stemmer Drive DISTRICT R-150	Purpose: Expansion of an existing one story home to also include living space on second floor. Violation of Resolution 4-R-14 *Granted* (litigation settlement)
David & Susan Amorin 429 Willow Way DISTRICT R-150	Purpose: Construct new one-family ranch home. *Variances:* Lot coverage & Maximum height *Granted*
727 Raritan Road Condominium Association, Inc. 727 Raritan Road DISTRICT-R-TH	Purpose: Install free-standing sign for office building. *Variances: Sign not permitted in* residential zone. *Granted*
Fourth MPPL Realty Co, Inc. 565 Raritan Road DISTRICT R-B	Purpose: Major subdivision of one lot into four single family lots with preliminary and final site plan approval for the construction of four single family homes. *Variances:* Relief of bulk variances. One family homes not Permitted in R-B Zone. *Granted*

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, MAY 22, 2017

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 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, Thomas Meade, John Tierney, John Moricz, John Caliguire, William Helm and Steve Kaminsky

Members Absent: Edward Ruth

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

OLD BUSINESS

Minutes from the January 23, 2017 Reorganization meeting were reviewed. John Tierney brought a motion to accept the minutes. Motion was seconded by Thomas Meade and carried unanimously by voice vote

NEW BUSINESS

Calendar #3-17, Anthony L. Ginesi, Sr., 1084 Raritan Road. Mr. Richard M. Cohen is the Attorney representing the Applicant. Mr. Spialter stated that proof of service and notices were in order

Mr. Richard M. Cohen: This is a use variance application. Property is located in the CN Zone, just under 60,000 sq. ft. The applicant proposes to construct a 24-unit age restricted apartment building. If deemed approved as proposed, we would come back for site plan, this is a bifurcated application. The goal of the project has several positives. It's age-restricted, no additional burden on the school system. Less traffic than a commercial use. It's residential and located within commercial uses such as the supermarket, deli, cleaners, all within walking distance and a contribution to the affordable housing obligation.

Mr. Thomas Quinn, testifying as a Civil Engineer, expert in site design. ***Marked as A-1 are the plans submitted to the Board.*** **Referring to the existing condition plan, this property is located on Raritan Road in a CN Zone surrounded by commercial uses. Site is approximately 600' long by just over a 100' wide. The front half is an open area; the rear half has become a detention basin over the course of the years. This is the area that collects storm water runoff. That northern half is completely wooded. So what we have is a non-wooded upland area to the south and a wooded wetland area to the north. This wetland portion will remain and be developed around it.** ***Storm water runoff was discussed for the additional imperious coverage for the development.*** **We do have an on-site detention to collect the volume of water and will be discussed further during site plan approval.**

Richard O'Connor: The Board should know for clarity that the applicant has submitted a storm water management report for the purpose of assuring the board that during the site plan approval they will be fully compliant with NJDEP and Township requirements for storm water management. A review of that report has been done and we did have a couple of little comments on it and the applicant has said that he would be comfortable addressing that at the time of site plan approval and that's appropriate for a bifurcated application. The reason we had asked for this information so that the applicant did enough engineering to know that he would be able to testify that he would be fully compliant with NJDEP and Township requirements at the time of site plan approval.

Mr. Quinn: the purpose of the bifurcated application is to avoid spending all kinds of money if the application is not going anywhere. Referring to sheet two, we are proposing a three story building. We show 40 parking spaces under the building and eight parking stalls outside. Proposed are twelve units on first and twelve units on second floor. ***Police and Fire comments were discussed along with sprinkler system and circulation pattern.*** **Mr. Spialter asked the applicant that if approved, a condition would be a fully sprinkled parking area, the applicant agreed. Mr. Quinn referred to and further discussed the grading and drainage plan and showed the location of the underground detention basin.** ***Lighting and landscaping were discussed along with the variances required for height, FAR, density and a use variance. Parking for delivery trucks, etc. were also discussed. Mr. O'Connor explained the COAH contribution/obligation with members.***

Spialter: Is it fair to say that everything you just discussed with COAH issues and that if this board grants an approval, they would be dealing with the Township? O'Connor: That's correct. ***Age restriction was discussed.*** **Board member: Some of these units are two bedrooms, if two grandparents have guardianship of a child, can the child live there? Quinn: I suppose if there's a child. O'Connor: At some point the applicant will have to make an actual definition of their interpretation of what is restricted because some are 55 & over, 62 or 65 and over and the facilities are operated quite differently.**

No questions from the Public for this witness

John McDonough, Professional Planner. Mr. McDonough stated that he prepared an exhibit which was marked as A-2, this exhibit contains three pages. Referring to page one, this is an aerial view of the site and the commercial buildings surrounding it. Page two are four pictures taken of the site from different locations. Page three contains four pictures of retail uses on Raritan Road. The main purpose of these exhibits is that from a physical and planner's standpoint there is certainly good shopping amenities in the area. This is a 3-story building, 12 units per floor, 24 units' total. Parking below, two living areas above. Dual access points, one in and one out. Surface parking in front, eight parking spaces for visitors, deliveries. Total 48 spaces, new lighting, new landscaping. I have this as a 55 plus. I do know that it would allow a dependent to live there but it's limited to total occupancy in the building. *Discussed was the uses that would be permitted in the CN Zone.* The applicant stated that they do need several forms of relief. Use variance, density, FAR and height. *Variances associated with this application was discussed in detail. In comparison, Mr. McDonough discussed the RA Zone where the multi-use residential would be permitted.* Variances reference only in the RA Zone are for coverage, proposed 28.25%, where 25% is the maximum allowed. Also proposed is a 4' side yard where 30' is required. *Positive and Negative Criteria was discussed.* This property is currently vacant, it's just sitting there, this use will complement the surrounding uses, with all said, I believe all test have been met and an approval is warranted. I think this is a good application from a planning standpoint. *Board member questioned history of this site.* <u>Mr. O'Connor</u>: There is a valid site plan approval for this site as a use for a medical facility that was approved. This site plan was used by this applicant to fill portions of this site and level this off. It was a Planning Board case with bulk variances and arguably still valid. *Board members asked questions regarding height, number of trips, lot coverage, building aesthetics, landscaping.*

Richard O'Connor to Mr. McDonough: Have you had the opportunity to review the Township's recent fair share and housing plan and the new ordinances specifically the RB-16 zone which would be more applicable to this? <u>McDonough</u>: I did look at this. I think there were some compatibles there with height and with coverage actually would comply with what's permitted in that zone. <u>O'Connor</u>: I think where I'm heading with this is that I don't think this is any secret that your board professionals have been concerned about the density associated with this application. Mr. McDonough testified that it's 2-units at approximately 5,000 sq. If 2-units were removed, that's four parking spaces that would be available for loading or visitors or roughly 10% of the total. If 2,500 sq. ft. of building was removed to comply with floor area ratio, similarly there would be more area available for quality of life issues for living space. So that's where our reviews have been directed. We had many conversations with the applicant and with the Engineer and Mr. Cohen but the applicants position has been that those 2-units have been de minimis adding them on and our position has been de minimis in taking them off. And if the applicant were to be better in compliance with either our existing RA Zone or our

RB16 Zone. In our opinion it would be a better application but the applicant is allowed to make its own proposals and it's up to the board to decide what their feeling is on that.

Mr. Cohen requested a 5- minute break.

RECESS

John Tierney brought a motion to take a 5-minute recess. Motion was seconded by John Caliguire 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: Douglas Krok, Thomas Meade, John Tierney, John Moricz, John Caliguire, William Helm and Steve Kaminsky

Members Absent: Edward Ruth

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

NEW BUSINESS CONTINUED

Mr. Cohen: We had a chance to talk to the Applicant Mr. Ginesi and would like to reduce the number of units to 22 from 24. As far as the height we can do a flat roof but it wouldn't be as attractive. We would work with the architect to make it attractive. *Board members and O'Connor discussed the location of the building with the 2-unit reduction.*

Spialter: A question that has been whispered is the unknown of what 22 is going to translate to as far as a building component, without some rendering, some plan or drawing. Is that something the applicant would be able to address, not necessarily tonight though, we would adjourn to another hearing. In the absence of that and no further witnesses I guess that's a question for Mr. Cohen.

Mr. Cohen stepped out for a few minutes to speak with the applicant.

RESOLUTIONS

Calendar #1-17, Reorganization meeting. Attorney Spialter read onto the record Resolution 1-R-17. Thomas Meade brought a motion to accept the resolution as read. Motion was seconded by John Tierney and carried unanimously by voice vote.

Calendar #2-17, Annual Report. Attorney Spialter read onto the record Resolution 2-R-17. John Tierney brought a motion to accept the resolution as read. Motion was seconded by Thomas Meade and carried unanimously by voice vote.

NEW BUSINESS CONTINUED

Calendar #3-17 continued.

Mr. O'Connor discussed the recently adopted RB-16 ordinance. It allows 16 units per acre, a height of 40', mean height, and 80% impervious permitted, he said this applicant is well under that.

Mr. Cohen stated that they would like a vote tonight for 22 units, a 10' reduction off the length of the building. With a condition for a fully sprinkled parking area.

William Helm brought a motion to approve with conditions for 22 units, a reduction of 10' of the length of the building, parking area sprinkled, sufficient utilities for water pressure and 40' mean height. John Caliguire seconded the motion. Board members gave their commentary.
Vote: Krok; yes. Meade; No, Tierney; no, Moricz; yes, Caliguire; yes, Helm; Yes, Kaminsky; no. **Application Denied. (Use variance requires five affirmative votes)**

ADJOURNMENT

John Moricz brought a motion to adjourn. Motion was seconded by John Tierney and carried unanimously by voice vote. Meeting adjourned at 10:48 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

June 26, 2017

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JUNE 26, 2017

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 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, and Steve Kaminsky

Members Absent: John Caliguire, William Helm

Board Member Thomas Meade arrived late and did not participate

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

OLD BUSINESS

Minutes from the May 22, 2017 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

NEW BUSINESS

Calendar #4-17, Marilyn Wesley, 19 Coldevin Road. Mr. Spialter stated that proof of service and notices were in order. Mrs. Wesley was sworn in. Mrs. Wesley stated that she and her husband have lived in Clark fifty years. We would like to add a front porch to our home and I was denied because of the setback. My husband is on oxygen and has very limited mobility. This would give him the opportunity to be outside more, talk to the neighbors or watch kids playing in street and have some kind of social life. *Board member Mr. John Tierney asked questions regarding the size and layout of the proposed porch.* Mr. Kaminsky asked the applicant that if they put a restriction on the variance to keep the porch open, not enclose it, would that be okay? Mrs. Wesley agreed.

Questions from the public: none

Statements from the public in favor of application:

Charles Vassallo, 18 Coldevin Road. This would be a great benefit due to his condition and I totally support it.

Rosemary Conti Manfredo, 14 Coldevin Road. I live across the street. I believe it's true that it would give him more of a social life. I enjoy speaking to him when I see him but it's been a couple of years now that I haven't seen him. He's in the backyard and doesn't get to speak with any of the neighbors except the neighbor next door to him. I would appreciate it and have no objection to the porch. It would be a pleasure to see him outside again.

Kathleen Vassallo, 18 Coldevin Road. We have a porch and use it all the time. The kids use it all the time. We've been in Clark only four years and it's a wonderful neighborhood. I've never see this gentleman and we're neighbors. I think everybody should have a porch.

Statements against the application: none

Closing comments: Mrs. Wesley: I would just like to say that I appreciate your consideration on this matter. It would mean a great deal for my husband to be able to go outside and enjoy the porch.

Edward Ruth brought a motion to approve Calendar #4-17 with the condition that the porch remain open. Motion was seconded by John Tierney. *Vote: All Ayes*

Mrs. Wesley requested that the Board waive the 45-day waiting period. Mr. Spialter explained the legal aspects of it. Mrs. Wesley agreed to go forward with the waiver.

Mr. Edward Ruth brought a motion to waive the 45-day waiting period. Mr. John Tierney seconded the motion. *Vote: All Ayes.*

RESOLUTION

Calendar #3-17, Anthony I. Ginesi, Sr., 1084 Raritan Road, Clark, N. J. Attorney Spialter read onto the record Resolution 3-R-17. Thomas Meade brought a motion to accept the resolution as read. Motion was seconded by John Tierney. *Vote in Favor:* John Tierney, Thomas Meade and Steve Kaminsky.

ADJOURNMENT

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

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

July 24, 2017

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, JULY 24, 2017

A public meeting of the Clark Board of Adjustment was called to order at 8 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, Chris Tierney, John Tierney, Steve Kaminsky

Members Absent: Douglas Krok, Thomas Meade, John Caliguire, John Moricz, William Helm

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

OLD BUSINESS

Minutes from the June 26, 2017 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

RESOLUTION

Calendar #4-17, Marilyn Wesley, 19 Coldevin Road. Clark, N. J. Attorney Spialter read onto the record Resolution 4-R-17. Edward Ruth brought a motion to accept the resolution as read. Motion was seconded by John Tierney. *Vote in Favor:* Ed Ruth, Chris Tierney, John Tierney and Steve Kaminsky.

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by Chris Tierney and carried unanimously by voice vote. Meeting adjourned at 8: 09 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Sept 19, 2017

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

TUESDAY, SEPTEMBER 19, 2017

A public meeting of the Clark Board of Adjustment was called to order at 8:00 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, William Helm and Steve Kaminsky

Members Absent: None

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

OLD BUSINESS

Minutes from the July 24, 2017 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

Calendar #5-17, KCSM, 1199 Raritan Road. Mr. Robert F. Miller is the Attorney representing the Applicant. Mr. Spialter stated that proof of service and notices were in order

Mr. Robert F. Miller: The property in question is located at 1199 Raritan Road. It is on the southeast corner of Central and Raritan Road. Property contains Tarantellas Restaurant and two other businesses, Molly Maguire's and White Diamond. It currently consists of four tax map lines. What we're proposing to do is to move lot lines and make three lots out of four. There isn't going to be any change in the use of the property. We're not changing any of the parking. The parking is less than what is required by the ordinance but were not changing any of the

parking. there are 195 spaces now, were not changing, moving or doing anything with any of the parking. This is a shared parking situation. It's adequate parking for the site. ***Mr. Miller discussed waivers being requested regarding Mr. O'Brien's review letter dated July 7, 2017.***

J. Tierney: Why is the reason for this? <u>Miller</u>: Because some of the interest in the businesses are in the process of being transferred. Tarantellas for example is being subdivided out.

Mr. Edward Dec, Professional Engineer in N. J. ***Mr. Dec briefly discussed a previous application before this board which was withdrawn by the applicant.*** **Now we're here to subdivide four lots into three more efficient lots.** ***Referring to sheet two of the site plan submitted to the Board, Mr. Dec reviewed the new lot lines and different zones using a highlighter showing how the lots will be subdivided.*** **When we were preparing the subdivision, we got significant input from Mr. Constantin as far as the usage and demand for parking. The demands fluctuate throughout the day. White Diamond is open 24 hrs. Tarantellas is more in demand at dinner time and Molly Maguire's is more in the evening. During peak hours we are never at the same time.** ***Board members ask questions regarding ownership of lots and number of parking spaces per lot.***

Mr. Stanley Constantin, 1199 Raritan Road. Mr. Constantin stated that for years Morris & Stanley Constantin owned this piece of property which is now Molly Maguire's which was the old Penney Arcade. My father passed away recently and my attorney and accountant suggested that I put the new piece into a LLC. So, Penny Arcade LLC is now the new owner of lots 18 & 20 and if approved will pick up ½ of lot 22. One-half of lot 22 will go to Penny Arcade LLC and the other half to a realty company that just bought Tarantellas Restaurant. KCSM owns Tarantellas. Originally there were six tax properties. Currently we are down to four, now we are trying to get down to three lots.

Mr. Dec discussed the variances associated with this sub-division. He also discussed special reasons why this application should be granted along with positive and negative criteria. **Mr. Dec stated that nothing is changing, fencing and screening will be the same. This area functions well today. This was very well designed to accommodate the uses on the site.** ***Mr. Miller asked Mr. Dec about existing utilities, drainage pipes across this property that have to be dealt with as conditions of approval.***

Richard O'Connor: none of these properties can stand alone independently. We suggested at the DRC meeting that they would need to create some kind of mechanism to allow these units to operate the way they do in the event there's a change of ownership between any of the parcels. No one knows where all the utilities and pieces of the puzzles are so we had suggested that the applicant would have to do some research and look into the best way to accommodate that. It appears that the use of blanket easements for all of the existing utilities is the way that seems to be coming forward. All of these properties are essentially in common ownership,

even though the businesses are owned separately. At some point as a result of this subdivision, these properties are likely to be sold to the owners of those businesses and there's going to be utility lines that cross these property boundary's in addition to the cross access in Clark. The cleanest way for the applicant to address this is to acknowledge that it exists and make sure that all future owners and all successive owners acknowledge the right to all these utilities that exist.

Miller: We will have blanket easements. We are acknowledging that a condition subsequent to any approval would have to be preparation and submission for your approval and his for all of these easements.

Spialter: is there an understanding of the Applicant and Mr. O'Connor that if an approval is given that certain utility and drainage work to be done is not going to be delineated now but sometime in the future. Is that correct? Miller: yes. *Discussion took place between Mr. Miller, Mr. Spialter and Richard O'Connor regarding recorded easements/agreements. Mr. Miller stated that he will draft something that will satisfy everyone, I prepare easements all the time.*

O'Connor: This is a unique situation, it's already here and it's been operating and approved on three or more occasions. It also protects the individual property owners. If Molly's wants to make a significant improvement to their facility, they still may not be able to do what they want to do because they can't take away things that are the rights or that the other owners have a right to do primarily with drainage or utility easements or parking.

J. Tierney: will there be an entrance/exit out of School Street? Miller: No. *Mr. Constantin told the board that he had installed a permanent barrier to prevent damage to the neighbors fence whose home is located on School Street. Condition of approval was discussed.*

Questions or Statements from the Public: none

Mr. Edward Ruth brought a motion to grant Calendar 5-17 with conditions. Provide drainage easements, provide cross access agreements, no egress or ingress on School Street, existing barriers, fencing and buffering shall remain and be kept in good condition. Motion was seconded by John Tierney. *Board members gave their commentary.* Vote: All Ayes.

ADJOURNMENT

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

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Oct 23, 2017

Dated

This meeting is available to view at Ourclark.com

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, OCTOBER 23, 2017

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 Tierney, John Caliguire, William Helm and Steve Kaminsky

Members Absent: Thomas Meade

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

OLD BUSINESS

Minutes from the September 19, 2017 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

Board members were sworn in for the Oath of Allegiance by Board Attorney Howard Spialter. Alternate l Member William Helm moved up to become a regular member of the board. Christopher Tierney moved up from Alternate ll to Alternate l Member. The Board welcomed Carmen Brocato as a new member to the board, Mr. Brocato has become an Alternate ll member.

RESOLUTION

Calendar #5-17, KCSM, 1199 Raritan Road, Clark, N. J. Attorney Spialter read onto the record Resolution 5-R-17. Edward Ruth brought a motion to accept

the resolution as read. Motion was seconded by John Tierney. ***Vote in Favor:*** **All Ayes.**

ADJOURNMENT

John Tierney brought a motion to adjourn. Motion was seconded by John Caliguire and carried unanimously by voice vote. Meeting adjourned at 8:25 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

Nov 13, 2017

Dated

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, NOVEMBER 13, 2017

A public meeting of the Clark Board of Adjustment was called to order at 7:59 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, Thomas Meade, John Tierney, Carmin Brocato, Chris Tierney and Steve Kaminsky

Members Absent: John Caliguire and William Helm

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

OLD BUSINESS

Minutes from the October 23, 2017 public meeting 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 #6-17, Anna & Lance Brunner, 60 James Avenue, Clark, N. J. Mrs. Brunner stated that she would like to repair her current free-standing garage and add a loft to be used as a wood shop. It will not have any heat, air-conditioning or running water. It's just a hobby that we have. We have tools that were left to us from my husband's father who recently passed away. We are trying to accommodate those, they are currently in storage. One side of this structure is a garage and part of it is a screened porch. The way the garage is right now you can't get much in there. If we put a car in there, we wouldn't have a place to store his motorcycle. *Mrs. Brunner explained how she would renovate the garage so she would be able to store both a vehicle and motorcycle.* Mrs. Brunner: All the wood-working equipment would be stored upstairs in the loft. Many of these items are very large, some are 200 to 300 pounds. They would be brought in through the garage door and up the stairs. We were concerned about theft so we thought we would put them on the second floor. *Board member Ed Ruth questioned if there was a way to avoid the 2nd floor. Mr. Spialter suggested an alternative that would minimize a variance or possibly avoid a variance by expanding out the back on the first floor.* Mrs. Brunner: we got the idea to do this because several of the homes in our development have this already. Mrs. Brunner submitted pictures to the board of other homes in the neighborhood that show garages, either attached or detached with a second floor over the garage. *Pictures were Marked as Exhibit A-1.* Mrs. Brunner: The height of my existing garage is 11'6", we are proposing 22' but could bring it down to 20' if we have to. The furniture we make is just for family, not for sale. We have an existing wood shed that will be removed and a new shed will be located behind the garage. *Mr. Spialter and the Applicant continued to discuss an alternative to the second floor.* Mrs. Brunner; This garage was built in the 1950's and no matter what we do we have to take the roof off. This is our way to accommodate the items that we already have and what we want to do with them which is why we designed this the way we did. Like I said, we see other garages in our development that was built this way, that is why we decided to go with this. Spialter: it would be less expensive to expand the garage than adding a second floor. Brunner; the foundation and back wall would have to come down. The shed is needed for storing the motor-cycle, generator, etc.

Mr. Kaminsky: If we approve this application, would you have any problem putting in a deed restriction so this cannot be used for living space or for a commercial venture. Brunner: Not at all. We will only have heat when needed, won't be automatic and no plumbing.

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

Closing Comments: I would just like to thank the board for their time. We have lived in this home for 42 years. We like the town; our kids were raised here. We would like to stay. We could afford to do this now that were both retired. These are our hobbies, he likes wood-working and I love to cook. Again, thank the board for your time and Janet, for your help.

Thomas Meade brought a motion to approve Calendar #6-17. Motion was seconded by Carmin Brocato.

Spialter: Before commentary, is this with the understanding that there will be a deed restriction and the Resolution to include that there will be no plumbing, no commercial venture; wholesale or retail, no living space, nothing other than a hobby. *Both Mr. Meade and Mr. Brocato said yes. Commentary was given by the Board. Vote:* Ruth: no, Krok: yes, Meade: yes, J. Tierney: no, Brocato: yes, C. Tierney: yes, Kaminsky: yes. *Application Granted*

Mr. Spialter to Mrs. Brunner: you have to have a draft of a Deed prepared and submitted to me for my review and approval. As part of that, so there's no misunderstanding, I would like to see your existing deed when you acquired title and if there's a title insurance policy I would like to see that also. *Mr. Spialter and Mrs. Brunner discussed title insurance.*

Mr. Kaminsky to Mr. Meade: Since you accepted the application, do you want to make a motion for the waiver of the 45-days based on Howard's acceptance of the deed information. Meade: it seems like their anxious to get started.

Mr. Meade brought a motion to waive the 45-day waiting period based on Howard receiving the required information he needs. Motion was seconded by Mr. Brocato. Spialter: before the Board votes let me explain what that means.

Mr. Spialter explained to Mrs. Brunner the legal aspects of waiving the 45-days. Spialter: if you understand the risks and accept them, the board will give it to you but it doesn't mean you have to utilize it.

***Vote in Favor of the 45-day waiver:* Krok; Meade; Brocato; Chris Tierney; Kaminsky**

ADJOURNMENT

Ed Ruth 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 11, 2017

Dated

This meeting is available to view at ourClark.com

CLARK BOARD OF ADJUSTMENT

MINUTES FROM THE PUBLIC MEETING

MONDAY, DECEMBER 11, 2017

A public meeting of the Clark Board of Adjustment was called to order at 8:01 P.M. by Acting Chairman Ed Ruth. 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, Thomas Meade, Carmin Brocato, Chris Tierney, William Helm and Edward Ruth

Members Absent: Steve Kaminsky, John Tierney, John Caliguire

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

OLD BUSINESS

Minutes from the November 13, 2017 public meeting were reviewed. Carmin Brocato brought a motion to accept the minutes. Motion was seconded by Thomas Meade and carried unanimously by voice vote

RESOLUTION

Calendar #6-17, Anna & Lance Brunner, 60 James Avenue, Clark, N. J. Board Attorney Howard Spialter read onto the record Resolution 6-R-17. Thomas Meade brought a motion to accept the resolution as read. Motion was seconded by Carmin Brocato. *Vote in favor:* Krok, Meade, Brocato, Chris Tierney.

ADJOURNMENT

Chris Tierney brought a motion to adjourn. Motion was seconded by Carmin Brocato and carried unanimously by voice vote. Meeting adjourned at 8:20 p.m.

Taken and Transcribed by:

Janet Gentry

Janet Gentry-Secretary

January 09, 2018

Dated

This meeting is available to view at ourClark.com