

METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

February 26, 2015

The meeting was called to order at 7:47 p.m. by Daniel Topping, Chairperson, who read the statement in accordance with the Open Public Meetings Act.

Present: Suzanne Andrews Jonathan Rabinowitz, Alt. I
Angela Sielski Jim Constantine, Planner
Judith Sisko Robert Renaud, Attorney
Byron Sondergard Lisa DiFranza, Engineer
Brian Tobin, Vice Chairperson Chris S. Cosenza, Zoning Officer
Daniel Topping, Chairperson

Late: (none)

Absent: Catherine McCartin

RESOLUTIONS

14-1048 **Priti Parikh** - Applicant is seeking bulk variance approval to construct a second story addition on a corner lot. – Approved January 8, 2015.

4 Wadsworth Avenue Block 16, Lots 1-6 R-1 Zone

A motion to approve resolution as written was made by Ms. Sisko and seconded by Mr. Tobin. Roll call vote taken. Ms. Andrews, Ms. McCartin, Ms. Sielski and Mr. Sondergard were not eligible to vote. Ms. Sisko, Mr. Tobin, Mr. Rabinowitz and Mr. Topping voted yes. Motion carried.

14-1053 **Nassau Development VII, LLC** – Applicant is seeking use variance and minor site plan approval for change of use for a portion of the Pet Pals to a house of worship (81 seat Church with classroom and office space). – Approved January 8, 2015.

12 Jersey Avenue Block 49, Lot 56 B-2 Zone

A motion to approve resolution as written was made by Mr. Rabinowitz and seconded by Ms. Sisko. Roll call vote taken. Mr. Sondergard was not eligible to vote. Ms. Andrews, Ms. Sielski, Ms. Sisko, Mr. Tobin, Mr. Rabinowitz and Mr. Topping voted yes. Motion carried.

NEW BUSINESS

15-1058 **Raymond Zipf & Angela Dohl** - Applicant is seeking bulk variance approval to construct a rear addition on a corner lot.

413 W. Chestnut Avenue Block 51.05, Lots 42-44 R-2 Zone

Mr. Zipf & Ms. Dohl were sworn in by Mr. Renaud.

Mr. Renaud explained the procedures of the hearing for Applicants.

Ms. Dohl indicated that her property is on a corner lot in the Radio Section. The house is an existing non-conforming to the front yard, the Center Street side. There is an existing addition at the rear of the building. It enclosed the staircase to the basement. It is not heated or vented. It is in disrepair and not very wide. They would like to remove the old, poorly constructed addition, reconstruct the stairwell and expand the kitchen. It will not come any closer to Center Street than the house already is. There are a few existing conditions that are not conforming and they are all part of the application. The addition adds 64 square feet to the house.

Mr. Zipf indicated it would enable them to add a refrigerator and some space to the kitchen.

Mr. Topping asked about the A/C condenser unit.

Ms. Dohl indicated that it would have to be moved, probably closer to the street. The driveway is right against the side of the house.

Ms. Sisko asked if landscaping would be continued.

Ms. Dohl indicated that the landscaping would have to be replaced.

Mr. Tobin asked if landscaping would be extended around the AC unit.

Ms. Dohl confirmed.

Mr. Topping asked about the materials and if it would match.

Ms. Dohl indicated it would match, it is vinyl.

Mr. Constantine asked about the material of the shed.

Ms. Dohl indicated it is wood, made by an Amish building company. The colors match.

Mr. Topping indicating that it seems like a classic Radio section application.

Mr. Renaud indicated application is for a c variance to allow for further encroachment into the front yard setback, or what we will call the front/side yard setback. Additionally, after discussing with Mr. Cosenza, Applicant will require a variance from §110-112.6.A if the A/C condenser unit will be located in the secondary front yard area.

Mr. Cosenza asked if the unit could be relocated to the other side of the house.

Ms. Dohl indicated that there is the driveway on the side and the patio is in the back.

Mr. Cosenza noted that Applicant appears to be constrained from relocating the unit.

Mr. Renaud noted that if the variance is to be granted, there should be reference as to what that setback distance can or should be.

Ms. DiFranza noted the 13.81 foot dimension from the Center Street side to the front of the house. She opined that the unit may be 10 feet from the property line.

Ms. Dohl indicated that she would work with her contractor to see if it could be moved.

After some discussion, if the unit is to be located in the front yard area, it was determined that eight (8) feet was the minimum setback distance that would be permitted, with proper screening subject to the Zoning Officer's approval.

There being no further questions from the Board, Mr. Topping opened the hearing to the public for questions and comments regarding the application. There being none, Mr. Topping closed the public portion.

A motion to approve the application as presented with the additional variance for the A/C condenser unit in the secondary front yard area was made by Mr. Rabinowitz and seconded by Mr. Sondergard. Roll call vote taken. Ms. Andrews, Ms. Sielski, Ms. Sisko, Mr. Sondergard, Mr. Tobin, Mr. Rabinowitz and Mr. Topping voted yes. Motion passed.

14-10331 **Greenway Village LLC** - Applicant is seeking preliminary and final major site plan approval with use variance, bulk variances and exceptions in order to construct two (2) buildings with 49 residential apartments and a parking lot.

392 Amboy Avenue

Block 134

B-3 Zone

Lots 60.01, 60.02, 61, 62

Mr. Wiley presented himself, appearing on behalf of Applicant. He explained that the application is in front of the Zoning Board of Adjustment, as opposed to the Planning Board, due to unique issues. The property is located in an unique location, bounded by the Amtrak line on one side, TD Bank on the other and the Middlesex Greenway to the south. and TD Bank. The property is in the B-3 zone which permits apartments; however, it does not permit apartments on the first floor. As a result, Applicant seeks a use variance along with a number of bulk variances. Applicant will present an engineer, architect and principals of the developer to testify. The developer developed the Central Avenue project that contains the liquor store, restaurant and apartment building. The last witness will be the planner to testify to the planning criteria.

Michael Marinelli, Applicant's Engineer, qualified himself and was accepted by the Board as an expert in the field of engineering. He indicated that this will be his first opportunity testifying in Metuchen.

Mr. Sondergard explained that he has had his car repaired by one of the current tenants of the property.

Mr. Wiley indicated that the tenant also fixes his son's cars and noted Mr. Sondergard's comment.

Mr. Marinelli presented Exhibit A-1, an aerial exhibit of the property depicting existing conditions of the property. The lot is irregular, almost triangular in shape. The property is commonly known as 392 Amboy Avenue, located on the north side of Amboy Avenue. The property is 1.53 acres in area and is located entirely in the B-3 Business-Office Zoning District. Surrounding the property is TD Bank to the east, the rail line to the north and the Greenway to the south.

Immediately north of the rail line is the D-1 zone where the Whole Foods application has been approved. Beyond the Greenway are residences in the R-2 Zone. The site is currently developed with three (3) structures: a single-family home to the east, a connected building housing a number of businesses and a metal warehouse to the north. To the west is a large gravel lot and storage area. The only access is off of Amboy Avenue. This site fronts on the dead-end portion of Amboy Avenue. Applicant seeks approval to remove all structures and construct two (2) residential apartment buildings.

Mr. Marinelli presented Exhibit A-2, a colorized rendering of the site plan depicting the proposed improvements to the property. There will be two (2) residential apartment buildings. The western building will be a two-story 15,960 square foot building with 16 dwelling units. To the east will be a three-story 34,800 square foot building with 33 units. The access will be narrowed to a 24 foot driveway that heads north into the site, between the 2 buildings, and heads west and dead-ends, providing access to a 72-space parking lot with four (4) ADA spaces. There will also be four (4) on-street parking spaces. Applicant also proposes to put in the typical amenities as expected and necessary. There will be sidewalks, a 16x16 trash enclosure and others improvements.

What is not shown on this plan, but has been asked by Borough professionals, are improvements to the area at the dead-end of the Amboy Avenue public right-of-way. It was suggested to provide a lawn and landscaped area. Applicant has agreed to do that. Accordingly, the curb will extend will to the south and a sidewalk would be provided across Amboy Avenue and connect to the Greenway.

Mr. Wiley indicated that Applicant would be willing to do so as a condition of approval.

Mr. Marinelli indicated that Applicant also agrees to provide bike storage. There will be bike storage within the units as well as exterior bike spaces for residents and visitors. The submitted site plan includes a landscaping plan containing a substantial number of trees, shrubs and ground-cover plantings. There will also be safe and adequate lighting including pole-mounted and wall-mounted lighting. The lighting will meet the standards of the Ordinance. Stormwater management will be handled in that on-site impervious coverage will be reduced. He described the natural drainage: the lower 1/3 of the site drains to the south toward the Greenway, the upper 2/3 of the site drains north toward the rail line. He indicated that the Borough Engineer raised concerns regarding the additional runoff and its potential impact to the Greenway. He indicated that can be remedied to prevent negative impact to Greenway. Impervious coverage is being reduced. Site is exempt from water quality requirements. All existing utilities will be capped and abandoned. New services will be brought off of Amboy Avenue. HVAC units and transformers will be on the east side of the eastern building and south side of western building.

Mr. Marinelli indicated that there are several bulk variances required in addition to the use variance:

- Side Yard Setback: 5.8 feet is proposed whereas 10 feet is required. This setback distance is located only at the southwestern corner of the western building, which is the result of the irregular shape of the lot;
- Combined Side Yard Setback: 15.9 feet is proposed whereas 40 feet is required. Again, this is the result of the constraints of the lot. If the site was rectangular, Applicant would not require this variance;
- Rear Yard Setback: 21.1 feet is proposed whereas 25 feet is required. This setback distance is located only at the northwestern corner of the eastern building;

- Impervious Coverage: It is better than it was, being reduced to 71.2% whereas a maximum of 70% is permitted.

In addition to the variances, several design waivers are required:

- Two-way Driveway Width: Because the driveway provides access to 90 degree parking recommends 24 foot wide drive aisle, in order to be consistent, a 24 foot driveway is proposed, whereas a maximum of 22 feet is permitted;
- Setbacks from Parking Area: Currently it is 0 feet, 3 feet is proposed whereas 5 feet is required. This occurs only in the area where the parking lot pinches along the rail line;
- Setbacks between Parking Area and Buildings: 6.7 feet is proposed whereas 10 feet is required. This setback distance is located only at the northwestern corner of the western building;
- Number of Parking Spaces: The Site plan provides parking for 72 on-site parking spaces whereas 90 parking spaces are required by RSIS. Applicant seeks relief from RSIS. Mr. Marinelli opines that site conditions warrant the reduction in parking that is required. 42 of the 49 units will be one-bedroom units. The site is located in an urban area and is close to mass transit. Additionally, there will be places for bike racks. He noted that Borough is considering reduced parking requirements to half in the downtown area;
- Dwelling Unit Mix: 86% of the number of units are one-bedroom units whereas a maximum of 75% of units of the total number of dwelling units of the same number of bedrooms is permitted;
- Massing: The length of a building cannot exceed 150 feet without sufficient offsets.

Mr. Wiley addressed the Engineer's memorandum. He referred to Page 3, comments #4, #5 and #6 to which Applicant agreed to comply. Page 4, comment #1, plans will need to be modified to provide a sidewalk connecting into the Greenway along the southerly right-of-way, subject to the review and approval of the Borough Engineer. Comment #2, Applicant will agree to comply and provide landscaping, subject to the review and approval of the Borough Planner. Comments #3, #4, #5 and #6 will be complied with. Comment #7, a waiver will be necessary for RSIS; however, he noted to the Board that an Ordinance to reduce parking in the downtown area is being considered.

Mr. Renaud clarified that the Ordinance will not reducing RSIS parking requirements, rather it will advocate for features to promote the reduction of residential parking requirements. In any event, the Board cannot grant waivers, only DCA can.

Mr. Wiley indicated Applicant will comply with comments #8, #9, #11, #12. With respect to comment #13, he asked Mr. Marinelli to testify to the seasonal high water table.

Mr. Marinelli indicated they should be able to provide a two (2) foot separation; there will be no basements.

Mr. Wiley indicated Applicant will comply with comment #14. With respect to comment #15, Applicant agreed to coordinate with Fire Department.

Mr. Marinelli indicated that there is a fire hydrant nearby.

Mr. Wiley indicated Applicant will comply with comments #16, #17.

With respect to comment #19, Mr. Marinelli indicated Applicant will provide refuse which will be located in the northeastern corner of the parking lot. The space is adequate for two (2) side-by-side dumpsters. Gates and drop-pins will be provided. With respect to comment #21, there is an existing light post that will be maintained.

Mr. Wiley indicated Applicant agreed to comply with comment #22. He further indicated that stormwater management will be subject to the Board Engineer.

Mr. Marinelli indicated that Applicant will make an attempt to not increase flow to the Greenway. There is an inlet within the Amboy Avenue right-of-way that collects water from Amboy Avenue and site and discharges into Greenway. The original plan had roof leaders directed to Greenway. Applicant has agreed to modify the design to link them to the existing stormwater system.

Mr. Marinelli indicated Applicant will generally comply with comments regarding utilities. He clarified that there is a hydrant not more than 100 feet away from the site. With respect to comment #8, proposed utilities will be installed below grade. With respect to comment #9, there is an existing utility pole in the location of the proposed on-street parking. Applicant desires to relocate the pole.

Mr. Renaud indicated that, after discussing with Mr. Cosenza, variances may be necessary for the proposed HVAC equipment.

Mr. Marinelli clarified that they will be located on the west side of the eastern building and on the south side of the western building.

Mr. Cosenza indicated that variances will be required if the units are less than three (3) feet from the side lot line shared with the bank and if it is anywhere in the front yard area between (the stub end of) Amboy Avenue and the front of the building.

Mr. Marinelli indicated that Applicant will agree with comments #11 and 12. Furthermore, outside agency approvals are pending.

Mr. Wiley addressed the Planner's memorandum. He referred to Page 6, comments #17 and #18, which considers improvements in public right-of-way. Applicant will agree to work with the Planner with respect to foundation plantings, additional screening, landscaping and bike racks. He indicated he had no further questions for Engineer.

Mr. Topping asked about the electric utility transformers to be located at the site.

Mr. Marinelli clarified that there will be no transformers proposed.

Mr. Topping noted testimony regarding a curb and lawn area within the Amboy Avenue right-of-way.

Mr. Constantine clarified that there will also be landscaping improvements there as well.

There being no further questions from the Board, Mr. Topping opened the hearing to the public for questions for Mr. Marinelli. There being none, Mr. Topping closed the public portion.

Mark Marcille, Applicant's Architect, qualified himself and was accepted by the Board as an expert in the field of architecture.

Mr. Marcille presented Exhibits A-3 and A-4, perspective renderings of the three-story and two-story buildings, respectively. He indicated that the attempt was to provide town-center style architecture with an attractive, warm, inviting design with traditional textures and materials. The designs relate to each other and to adjacent sites. The three-story building will have more commercial feel, given its proximity to TD bank with horizontal base, cornice and other details. The two-story building will be more residential in nature, with a gable roof, dormers and shutters. The three-story building will have an entrance on Amboy Avenue. There are multiple entrances on all buildings. Applicant will attempt to comply with all comments from Mr. Constantine's reports. With respect to comment #12, a waiver will be required from Building Location and Design.

Mr. Topping noted the exhibits appeared different than submitted plans.

Mr. Marcille indicated the plans have been revised in response to Planner's comments. With respect to comment #13, offsets have been increased from 1'-4" to 2'-0" in an effort to comply. With respect to comment #14, a horizontal base will be provided. With respect to comment #15, Applicant will comply with such that a waiver will not be required. With respect to comment #16, the wall-packs will be removed and residential-style light fixtures will be provided. With respect to the A/C condenser units, the two-story building will have 16 units installed along south side of the building, facing the Greenway.

Mr. Topping noted that was a lot of condenser units to not be shown on the site plan.

Mr. Constantine requested Mr. Marcille to illustrate to the Board where the units would be located.

Mr. Cosenza asked if the units can be ganged.

Mr. Wiley indicated that he would have Applicant testify further.

There was a discussion regarding the A/C condenser units in front of the two-story building. Mr. Cosenza clarified that the three (3) foot setback is the standard to rear and side yard setback lines, whereas the location between the stub end of the Amboy Avenue right-of-way and the two-story building is still considered a front yard area. It is a technical matter understanding the physical improvements of the street stops at the driveway entrance. Mr. Wiley clarified that it is not a vacated street, but the reality it is an open space as opposed a street. Mr. Marinelli agreed with Mr. Cosenza that it is still a front yard area. Mr. Constantine noted that this area is still an important issue to address. Given the high traffic of the Greenway, it should be treated like a typical right-of-way to be fronted upon. It is a legitimate front.

Ms. Andrews asked about the location of the Greenway.

Mr. Marinelli indicated that the Greenway runs approximately 30 feet from the southerly lot line. There is a grade change between the subject site and the Greenway. A sidewalk would be provided, with its access approximately 100 feet east from the driveway entry to appropriately connect to the Greenway (because of the grade change).

The Board discussed the merits to the fronting of the Greenway.

Ms. Andrews raised her concerns regarding the 200 foot list and related notice.

Mr. Wiley indicated the 200 foot list is on the site plans.

Mr. Renaud confirmed.

Mr. Marinelli clarified that several residences, within the Rose Street and Memorial Parkway block, were noticed.

Mr. Topping stated that the exhibits show elevations with a new entrance. However, there is no relation to the plans; he asked if revised plans were provided.

Mr. Marcille indicated he would have to provide revised plans; the entrance leads to apartment #4.

Ms. Sielski indicated that the treatment to the south side of the two-story building is important. She asked if a fence would be provided on the site because of its proximity to the Greenway and rail line. In the winter, you can see straight through the site.

Mr. Wiley indicated Applicant would provide additional testimony.

Mr. Topping noted the brick use; he asked what other materials were being considered.

Mr. Marcille indicated it would have vinyl and stucco, with aluminum wrapped windows.

Ms. Andrews requested clarification regarding the combination between vinyl and stucco.

Mr. Constantine asked Mr. Marcille to compare the design with the building on Central Avenue.

Mr. Marcille indicated it is very similar.

Mr. Tobin asked about the rear access to the two-story building.

Mr. Marcille described access to the building; there are three (3) distinct entrances providing stairwell access to a group of units.

There being no further questions from the Board, Mr. Topping opened the hearing to the public for questions for Mr. Marcille.

Seth Robertson, 11 Rose Street, thanked the Board for reiterating his concerns of visibility of the HVAC units. He asked where exactly the HVAC units will be located and how they will be screened.

Mr. Marcille stated that they are not shown on the rendering. They will be shown on the elevation facing Mr. Robertson's property. They will be screened with greenery.

Mr. Robertson noted that there is a small hill and issues related to its maintenance.

Mr. Wiley indicated the hill is on property owned by the County and is part of the Greenway.

Ms. Andrews raised her concerns regarding the location of the HVAC units; they Board does not have anything to look at to react to.

Mr. Marcille indicated they could be placed into the green triangle. He would defer to Applicant.

Mr. Topping raised his concerns regarding the noise.

Mr. Cosenza briefly discussed the performance standards of the Ordinance. He believes the limit is at 65 decibels to be measured at the property line. Typically, it is not an issue if it is properly screened.

Mr. Topping requested data for noise. He believes it is 65 decibels during the day and 55 decibels at night.

Mr. Cosenza asked if that is to be provided for at the property line of the Greenway and/or residential properties (across from the Greenway).

Mr. Topping requested for both.

Jeff Josell, Applicant, was sworn in by MR. Renaud. He is the owner and developer of Greenway Village LLC. He developed the Suburban Dodge property on Central Avenue. Greenway Village LLC will own and manage and maintain the property. Commons areas will be maintained. The project will not be developed in phases. With respect to parking, one (1) space per unit will be dedicated. There will be a limited offer to purchase a second space. Mail will be provided in vestibule areas within buildings. In terms of refuse, a private hauler will be utilized. With respect to mechanical equipment, each unit will have its individual furnace and A/C condenser unit, much like that of a typical single-family house. They will not create any more noise than a typical unit. They will be scattered along the front of the two-story building. The lines cannot be too long, so they cannot be ganged in one (1) location. They can be ganged into groups of four (4). With respect to the western building, residents will park on the north side, so the physical front of the building will be on the parking lot side; he prefers the A/C condenser units not to be there while residents walk to their apartment. He feels the south side is the ideal side. They will be screened in a location where the dead-end of Amboy Avenue will now be closed off.

Ms. Andrews asked if any could be located there.

Mr. Josell indicated that residents will enter the building from the north; he does not desire to have residents walk by A/C condenser units.

Mr. Constantine asked if any units could be placed on the west side.

Mr. Josell indicated that four (4) could be located there.

Mr. Topping asked about the units for the three-story building. There is an approximate five (5) foot dip in grade from the drive-thru lane of the bank to the proposed grade of the property. The units will not be visible.

Mr. Constantine asked if the units would be visible on the northern side.

Mr. Josell indicated they may be visible from Lake Avenue.

Mr. Marinelli clarified that the grade change is approximately four (4) feet on the northernmost side of the three-story building.

Mr. Josell indicated that the A/C condenser units are not very apparent at the Suburban Square. He has not received complaints from Central Square residents. It is his intention to hide them as best as possible and to make this a desirable place to live.

Ms. Sielski raised her concerns about the lack of fencing at the site. She referred to Metuchen Gardens, which has a similar situation, where the site abuts a freight line. The fence provides separation from rail line. She asked if any plans to provide fencing at this site.

Mr. Josell indicated that there is landscaping along the buffer area. After discussion with Mr. Constantine, more landscaping can be provided to fill in the gaps.

Mr. Sondergard indicated that, these days, fencing is located along most residential properties. Most are put up by the rail line. He suggested that one be provided.

Ms. Sielski indicated Amtrak tends to put up a chain-link fence versus a nice-looking fence. She further raised her concerns regarding lighting on the south side.

Mr. Josell indicated lighting will not shine off-site. He further clarified that he would utilize stucco material for the trim. He referred to his project on Central Avenue as an example.

There being no further questions from Board, Mr. Topping opened the hearing to the public for questions for Mr. Josell. There being none, Mr. Topping closed the public portion.

Tamara Lee, Applicant's Planner, was sworn in by Mr. Renaud. She qualified herself and was accepted by the Board as an expert in the field of planning. She indicated she is also a licensed landscape architect.

Ms. Lee indicated that Applicant is proposing 49 units on a 1.53 acre site in the B-3 zone. The site is very irregular. The geometry of the site represents many of the constraints Applicant faces and requires a number of bulk variances. She noted that use variance is not required for the entire project. There are apartments on the second and third floors, which are permitted by right. It is the 19 apartments on the first floor that needs the use variance. The reason for that particular restriction is, after reviewing the Master Plan, probably in the 1990's, developing planning policies to ensure vibrant downtowns and one of the many ways to do that is to promote commercial development on the first floor and residential above. This works well in the downtown areas. This draws in customers and promotes economic vitality downtown. By having apartments above, hopefully they will spill out into the streets and support commercial businesses in the downtown. Unfortunately, the underlying assumption is that there is a busy street in front. This site does not get any pass-through or pedestrian traffic. It is isolated. For those reasons, commercial development is not desirable. The commercial development that occurs now is typically referred to low-value ratables and is not permitted. Despite the request for the use variance, the site is actually going to become more conforming to the Ordinance. So there are a lot of reasons why commercial development will not work here.

Ms. Lee further testified that, for the same reasons, it is a much better site for residential development, particularly because it is a quiet, secluded area. Towns typically like to place single-family residential homes on quiet streets and apartments in busier areas. This is actually unusual for an apartment development. She opined that, as a result, these will create a high-value ratable. In addition to that, because the site is at the end of Amboy Avenue, she opines that it is similar to cul-de-sac insofar that these types of sites tend to self-police themselves. There is no reason, unless you live on the street, for other people that do not belong there to be there. This will be a safer apartment development. In addition, another reason the site is good for residential development, as noted by the Board, is because of access to the Greenway. It was designed to bring more residents to close proximity to the Greenway. There will now be a direct access to the Greenway. There is not a lot of outdoor space in an

apartment development; therefore, having the Greenway is an advantage and will make it highly valuable. The Whole Foods development would permit residents of this development to utilize the Greenway to access Whole Foods. There are also residences south of the Greenway. At this moment, these residents look at unsightly development. The project will be more desirable. In addition, the western building will break up the view of the tracks from the residents in the R-2 zone. This site is particularly well-suited for the proposed development, which is one of the proofs for the positive criteria for the d(1) variance.

Ms. Lee noted that this application supports the purposes of the land use law, as well as goals and objectives of the Master Plan. She described how the project supports subsections (a), (g) and (i) of the MLUL. With respect to the Master Plan, there are other goals being supported. First and foremost, it is closer to conformance to the Ordinance than what is there now. It is more compatible to the Greenway and residential neighborhood. There will be economical housing close to the train station. She recalled Mr. Josell's discussion regarding parking. It is a walkable community with access to the train station. She noted there will be mostly one-bedroom units with no amenities for children. She opines it will generate few school children.

Ms. Lee further testified that, as far as the negative criteria, since the application does advance a number of objectives, she does not anticipate any determinants. Lighting will be more residential and pedestrian scale. In terms of traffic, purely residential development has a very low traffic generator, as opposed to commercial development on the first floor. In 2009, the Circulation Plan Element indicated that improvements were required at the Lake/Amboy Avenue intersection, which is now completed. The NJDOT classifies this intersection as level C, through 2025. When considering the lower-traffic generator, located at the end of the stub street, she opined that very little traffic will be generated at the intersection. She does not believe that there is any detriment to the Master Plan or substantial impairment to the Zone Plan.

Ms. Lee addressed the enhanced proofs, given this is a d(1) variance, opining that ordinances are designed to address the most common situation. This site is not a very common condition in the B-3 zone. Even though it deviates from the Ordinance, as long as it supports planning objectives, the use variance can be justified. She provided testimony to the other variances and waivers. She does not believe that the required 90 parking spaces will be necessary. As noted before, a number of the bulk variances are a result of the shape of the lot, located at pinch points. The purpose of side yard setbacks is to ensure distances between buildings. In this case, there is significant space between buildings. Impervious coverage is actually being reduced. She believes the issues related to the accessory structure variance (A/C condenser units) will be addressed; they will be significantly screened from noise and view. In her professional opinion, Applicant has satisfied all of the positive and negative criteria.

Mr. Sondergard noted that Lake and Amboy Avenue are very busy streets. He opined that the bank generates traffic. He noted that at least 49 cars will be introduced to the intersection.

Ms. Lee indicated that current uses do not conform to the ordinance. The current uses are also low-value. She indicated she made her comparison to what the Ordinance would permit, which would be commercial uses on the first floor. First floor commercial would generate much more traffic than residential uses.

Mr. Sondergard opined it was a false comparison, as it was made with a project that would be impossible.

Ms. Lee indicated that was a fair point; the purpose of the planning testimony was to make the comparison as it relates to the merits of the application and how it compares to what the Ordinance permits.

Mr. Sondergard noted that there will be additional traffic; he asked Ms. Lee if traffic would significantly impact the intersection.

Ms. Lee opined that it would not. When the NJDOT did its study, they did it based on the areas that contribute to this intersection being built out in accordance with the Ordinance. Applicant will be building this project with a use that will generate less traffic than what the Ordinance permits.

Mr. Topping noted that there were references to a draft Ordinance. Outside of referencing it again, he asked if benchmarking was made with other projects.

Mr. Wiley suggested that Applicant testify to that given he constructed a similar development on Central Avenue.

Mr. Topping indicated that was reasonable.

There being no further questions from Board, Mr. Topping opened the hearing to the public for questions for Ms. Lee.

Leonard Roseman, 40 Miller Drive, asked Ms. Lee how far the train station is from this location.

Ms. Lee indicated it is 200 feet closer to the train station, as compared to Suburban Square. It is less than a 1/2 mile away.

Mr. Roseman asked about the COAH requirements.

Mr. Wiley indicated there is a 15% set-aside requirement.

Mr. Josell indicated there would be seven (7) affordable units: two (2) three-bedroom units, four (4) two-bedroom units and one (1) bedroom unit.

Mr. Cosenza confirmed that same is referenced in Shirley Bishop's report.

There being no further questions from the public for Ms. Lee, Mr. Topping closed the public portion.

Mr. Wiley requested Mr. Josell to come back forward and speak to speak to the Central Avenue parking and affordable housing characteristics.

Mr. Josell indicated that there are 37 spaces for the 33 units, which is OK as is. There is shared parking with Wine Chateau and Lola's Bistro. There are generally no parking issues except for Friday and Saturday nights, which is handled by valet parking, as testified before this Board on that application. He builds mostly one-bedroom units to prevent too many school children. The average demographic for the buildings are within the 26-36 age group, signed to one-year leases. Many renew their leases and tend to live 4-6 years. Residents like being in Metuchen and sometimes use the apartment as a stepping stone to buy a house in Metuchen. He does get commuters who walk to the train station in from Suburban Square as well as the building he

owns on Amboy Avenue. As far as parking, it is a very low parking requirement. The COAH units have not had a negative impact on parking, even with school kids in the affordable units.

Ms. Sisko asked about the RSIS exception.

Mr. Renaud suggested Board not to consider the draft Ordinance that has not yet been passed. It is never correct to count on an Ordinance being passed until it is passed. He does not believe it would have had an impact on the application anyway because the Ordinance cannot vary RSIS standards. Having said that, the RSIS standards are not a hard and fast rule. Section 5:21-4.14(c): "alternative parking standards to those shown in Table 4.4 shall be accepted if the applicant demonstrates these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking resources." Section (f) provides for "when, in the judgment of the local approving authority, on-street parking is available, then only that proportion of the parking requirement which is not available on the street shall be provided in off-street parking facilities. A length of 23 feet per on-street parking space shall be used in calculating the number of available on-street parking spaces." So if the Board finds that there are four (4) parking spaces on the street, the Board is supposed to deduct that from the parking requirement. If the Board finds the any reasonable alternative parking standard would apply, for example that 72 spaces is enough, given its proximity to mass transit, location, household characteristics, and so forth, the Board could find that 72 is enough, then, in that case, the Board would not have to grant an exception. The Board has set the standard. If the Board found, for example, that Applicant should have 80 spaces and only provides 72, the Board could grant an de minimis exception.

There being no further questions, Mr. Topping opened the hearing to the public for comments regarding the application.

Laurie Lindsey, 29 Beechwood Avenue, was sworn in by Mr. Renaud. She indicated that she understands changes are inevitable. However, to classify businesses that currently sit at this site as low-value, was incredibly offensive. At the very best, they operate in retail-fashion and the businesses support the residents of Metuchen.

There being no other comments from the public, Mr. Topping closed the public portion.

Mr. Wiley wished to clarify that Applicant provided testimony regarding economics. He noted that auto repair shops are not a permitted use and is obviously a non-conforming use. While they used technical terms, he wished to clarify they do not mean to be offensive.

Mr. Topping noted that the application was well-presented. He believes a lot is being asked for at this site but is well-intentioned. There are conditions to be further considered. The application is worth considering.

Mr. Renaud suggested that the Boards discuss if there any particular variance they wish to address. He noted that there is a d variance for the residential use on the first floor only and a number of c variances. He is not entirely clear as to where the A/C condenser units are to be located. In the past, the Board has left those issues to the Planner and Engineer to decide if and how many units can be there. Applicant gave an explanation as to why the units should be located on the south side of the westerly building. Four (4) units could be placed to the west side of the two-story building and six (6) on the north side of the three-story building. The Board could permit the professionals address them, knowing that the units have to go somewhere. He

further noted that indicated that there appeared to be no disagreement with the Engineer's and Planner's memoranda. Applicant will be required to comply with recommendations and requirements within them and be required to submit revised plans to reflect them. Since it would be a d variance, Applicant requires five (5) affirmative votes.

Mr. Topping opined that the A/C condenser units could be worked out with the professionals; there are also conditions for improving the stub end of Amboy Avenue, provision of landscaping, bike storage, and so forth.

Ms. Andrews asked Mr. Constantine if the concerns can be addressed.

Mr. Constantine indicated that Applicant has worked with him to address issues in the past. In fact, the landscaping at Suburban Square is used as a model. He noted that one (1) space per apartment is typical. As noted in his memo, he suggested that the one (1) space closest to the western side of the westerly building be eliminated; the setback is very narrow. He further indicated that a number of visual tricks could be done to address much of the concerns. The desire is to have the building front on the Greenway. He believes it can work.

Mr. Topping agreed with concept of one (1) parking space per one-bedroom apartment. He noted that the proposed ratio at this site is 1.46. He noted a number of spaces at the stub end that could be eliminated that would allow for a better plan. He asked if there was precedent in a resolution to allow for spaces to be land-banked.

Mr. Constantine indicated that he and Ms. DiFranza have discussed that. They are comfortable with reducing the parking that is provided. The residents would be five (5) to 10 spaces away. The project is incredibly transit-friendly. He suggested at least the four (4) spaces at the south side of the end be eliminated.

There was discussion to land-bank the entire stub end of the parking lot, which accounts for approximately 10 spaces, reducing the parking provided to 62 spaces, to which Mr. Constantine noted could be supported by referencing the Master Plan (given that the corresponding Ordinance has not yet been adopted).

Mr. Topping indicated he was OK with the concept of land-banking.

Mr. Renaud summarized all of the conditions.

Mr. Tobin expressed his appreciation to Mr. Constantine and Ms. DiFranza for their fantastic review memoranda. It made the application very quick and easy to understand.

A motion to approve the application as presented with the additional variance for the A/C condenser units and conditions noted during the case of the hearing by Ms. Sisko and seconded by Mr. Rabinowitz. Roll call vote taken. Ms. Andrews, Ms. Sielski, Ms. Sisko, Mr. Sondergard, Mr. Tobin, Mr. Rabinowitz and Mr. Topping voted yes. Motion passed.

CORRESPONDENCE

Minutes from August 14, 2014

A motion to approve the minutes as written was made by Ms. Sisko and seconded by Mr. Sondergard. Voice vote taken. All eligible Board members voted yes. Motion carried.

Minutes from January 8, 2015

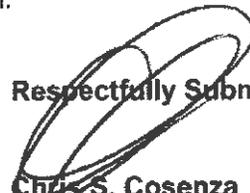
A motion to approve the minutes as written was made by Mr. Topping and seconded by Ms. Sisko. Voice vote taken. All eligible Board members voted yes. Motion carried.

ADJOURNMENT

A motion to adjourn the meeting was made by Ms. Sisko and seconded by Mr. Sondergard. Voice vote taken. All Board members voted yes. Motion carried.

The meeting adjourned at 10:30 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Chris S. Cosenza", written over a circular stamp or seal.

**Chris S. Cosenza
Recording Secretary**

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING
C VARIANCES TO
PRITI PARIKH
4 WADSWORTH AVENUE
BLOCK 16, LOTS 1, 2, 3, 4, 5, 6
APPLICATION NO. 14-1048

WHEREAS, Priti Parikh, hereinafter referred to as “the Applicant,” is the owner of Block 16, Lots 1, 2, 3, 4, 5, 6, as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 4 Wadsworth Avenue, in the Borough of Metuchen, County of Middlesex and the State of New Jersey; and

WHEREAS, the Applicant has applied to the Metuchen Zoning Board of Adjustment for approval of C variances; and

WHEREAS, the Metuchen Board of Adjustment held a public hearing on said application on November 14, 2014, and January 8, 2015 after compliance with the notice, service and publication requirements of N.J.S.A. 40:55D-12; and

WHEREAS, at said hearing, the Board of Adjustment considered the following documents:

1. Zoning permit.
2. Board of Adjustment Application for Development dated October 17, 2014.
3. Proof of payment of taxes and assessments.
4. Application and escrow fees.
5. Memoranda of Maser Consulting, P.A. by Lisa R. Di Franza, P.E., C.M.E., dated

November 10, 2014 and December 8, 2014.

6. Memoranda of Looney Ricks Kiss by Jim Constantine, PP, and Michael DiGeronimo, PP, AICP, dated November 12, 2014 and January 7, 2015.
7. Additional submission dated October 22, 2014 from Priti Parikh, Applicant.
8. Survey of 4 Wadsworth Avenue dated August 11, 2014 by Paul Berg, Jr., P.L.S.
9. "Variance Plan prepared for 4 Wadsworth Avenue," by Fletcher Engineering, Inc., dated November 24, 2014.
10. Architectural plans by JoAnn P. Montero/KCA Consulting, LLC, dated November 24, 2014.

WHEREAS, the Applicant, Priti Parikh and his wife Adil Belihomji, appeared and gave testimony and presented witnesses; and

WHEREAS, the Applicant proposes to expand the existing one-story dwelling with a one-car garage by constructing a second floor addition within the existing footprint with a small first floor expansion to accommodate a two car garage, and a new deck at the rear of the property, located at 4 Wadsworth Avenue; and

WHEREAS, the subject property is located in the R-1 Zone District; and

WHEREAS, the application, as originally submitted, required the following C variances:

§110-64, minimum front yard setback, 25 ft. required, 18.7 ft. existing for first floor, 18.7 ft. proposed for second floor addition;

§110-64, minimum side yard setback, 10 ft. required, 5.31 ft. existing for family room at rear, 5.55 ft. proposed for 2-car garage;

§110-112.3.C, driveway width, maximum width of 12 ft. with a driveway apron flaring out to maximum of 20 ft., 18 ft. wide apron existing, 18 ft. wide apron proposed;

§110-112.7.I, public sidewalks, Applicant requests relief from providing sidewalk along the Wadsworth Avenue property frontage;

§110-112.7.J, private walkways, Applicant requests relief from providing a private walkway to the public sidewalk as there is an existing private walkway leading to the driveway; and

WHEREAS, the Board heard the presentation and evidence as follows:

1. The first hearing date was November 14, 2014. Mr. Parikh and Ms. Belihomji were sworn in. Mr. Parikh testified that they recently purchased the subject premises, a ranch-style home which has a one car garage and is in bad condition. The property is on a corner lot. The house is set at an angle. The Applicant proposes to expand the residence by adding a second floor to accommodate a total of five bedrooms, and to have a two car garage. In order to have a two car garage, Applicant needs to extend the garage about 5 feet. He stated that because the house is at an angle and the point of the garage will go into the required side yard, Applicant requires a side yard variance.

2. Mr. Parikh stated that the house is more than sixty years old and is in bad shape. The existing garage is about 14 feet wide and will not accommodate two cars. Mr. Parikh indicated that the house is already beyond the 10 foot required side yard on the north side where the existing rear addition is only 5.31 feet from the northerly property line. The proposed garage, as shown in the plans which are attached to Mr. Parikh's October 22, 2014 submission, would extend to a distance of 5.5 feet from the side lot line. Additionally, the proposed second story addition would encroach into the required front setback from Norris Avenue and would also require a variance. The second floor addition, located over the footprint of the first floor of the

existing residence, would be 18 feet 7 inches from the Norris Avenue front property line, whereas a 25 foot front setback from that property line is required.

3. Mr. Parikh indicated that the existing driveway apron is 14 feet wide at the property line and 23 feet 4 inches wide at the curb line. Twelve feet is permitted under the ordinance.

4. Mr. Parikh stated that they will need to take two trees down. They are shown on the plan labeled T-5 at the left side of the property.

5. The existing basement is not finished. Applicant went through the plans. The existing first floor of the property has three bedrooms and two bathrooms, and includes a living room, kitchen and dining room, with a family room to the rear. The proposal is for there to be two bedrooms on the first floor and three bedrooms and two bathrooms on the second floor. The basement will remain open. There is a bathroom in the basement.

6. Applicant referred to drawing A6, the proposed Wadsworth Avenue Elevation with the proposed Norris Avenue Elevation. The façade would be brick faced with the sides being vinyl. The roof height will be less than 35 feet, about 30 feet.

7. Michael DiGeronimo, Board Planner, reviewed his November 12, 2014 memorandum. There is an existing sidewalk on Norris Avenue. There is no sidewalk on Wadsworth Avenue. The issue for the Board is whether to require a Wadsworth Avenue sidewalk along the front of this property. Applicant will be required to maintain and repair the existing Norris Avenue sidewalk where required.

8. Mr. DiGeronimo reviewed the issue of the private walkway to the home. Currently, there is a walkway from the doorway to the driveway. The issue is whether to require

a sidewalk on Wadsworth and then connect a private walk, or whether to require a private walk to the sidewalk on Norris Avenue, or permit the walkway to remain as is.

9. The issue of the driveway width at the apron was reviewed. The issues related to the colors and design of the residence was discussed. Applicant was informed that it would be necessary to conform to the front yard landscape requirements in accordance with §110-112.7.

10. The Board Engineer's November 10, 2014 memorandum was reviewed. The required variances were noted. Applicant agreed to comply with all of the requirements and recommendations contained in the Board Engineer's memorandum.

11. The hearing was opened to the public.

12. Oksana Kozak of 232 Norris Avenue objected to the application as did Donald Coleman of 12 Wadsworth Avenue.

13. Larry Soto of 227 Norris Avenue asked about whether Applicant would be planting a lawn instead of having pebbles. Applicant stated that he would remove the brush on the corner and will plant the lawn. Terry Coleman of 12 Wadsworth Avenue asked if the foundation was strong enough for a second floor. Applicant responded that it was.

14. Donald Coleman of 12 Wadsworth Avenue stated that he lives next door. His parents bought their house in 1960. The addition on the subject premises went on back of the house in the mid-1960s. He stated that the owners obtained a variance at that time, approximately 1965. He stated that what Applicant proposes is not the norm in the neighborhood. Mr. Coleman stated that his house is about 25 feet away. He does not want a garage 5 feet from the property line. He indicated that the driveway that exists is the original driveway which has not been changed.

15. Terry Coleman stated that she does not want the garage to be encroaching into the side yard near their property.

16. There was some discussion among the members of the Board. Some Board members felt that the plans which were prepared by Mr. Parikh himself were unclear and that a landscaping plan was lacking. One member of the Board thought that the size of the lot, which exceeds the ordinance requirements, is a positive factor. Several members of the Board expressed that they thought a sidewalk should be required on Wadsworth Avenue.

17. After some discussion, Applicant agreed to consult with an architect and to return to the Board.

18. The hearing was carried to December 11, 2014. An announcement to that effect was made.

19. The hearing resumed on January 8, 2015, since that Board was not able to assemble a quorum for the scheduled December 11, 2014 hearing.

20. It was noted that the applicant has submitted revised plans prepared by an architect and an engineer. Mr. Parikh introduced Kenneth Anness and Paul Fletcher as his professionals.

21. Mr. Anness was sworn in, qualified and gave testimony. Mr. Anness indicated that he was the project architect on this job. Mr. Anness testified that he has been working in New Jersey in architecture since 1979. He received his architecture license in 1991. Right now, he is working with JoAnn Montero on this particular project, who is the architect of record. He has testified before numerous boards.

22. Mr. Anness stated he looked at the project and had resubmitted plans based on comments made by the Board and professionals. He opined that comments appeared to be about

aesthetics and that there was no objection to the variance. He indicated that the front will have clapboard /composite siding. Colors are undecided; they will likely be pastel tones with Azek trim. He indicated that he has done a lot of work with builders in the Borough of Metuchen. He has worked on approximately 15 homes.

23. Mr. Anness introduced Exhibit A-1: a larger representation of the front elevation that was submitted as part of the application. The issue with this house is that the existing house is 70 feet wide; most of the new homes are 30 feet wide. He explained that he introduced an overhang to provide a roofline and providing more space to the bedroom. He indicated that it would be possible to introduce trim and brackets.

24. Mr. Anness stated that the two-car garage was necessary because it will be a 3-generation home: Applicant's parents, Applicant and Applicant's children. The cars would also be protected from the elements, which is especially important for the parents. There will be a suite on the ground floor for the parents.

25. Mr. Anness stated that there was intent to minimize the impact of the project. He opined that the dwelling is well thought out. He wished to make a correction: the plans showed casement windows; they will actually be double-hung windows. He advised his clients to eliminate the front yard variance (on the second floor). It was making the existing problem worse. The existing first story portion of the dwelling within the front yard setback remains. They are also eliminating the proposed deck over the garage. The focus is to maintain the proposed two-car garage. He opined that it would be difficult to have a house with six (6) to seven (7) people in the house with only a one-car garage.

26. Mr. Topping asked about the cantilever, particularly the one in the rear. Mr. Anness indicated it was a design decision for additional square footage. The extra two (2) feet

helps. Regarding the front of the dwelling, he indicated that many of his 30' homes have cantilevers.

27. Mr. DiGeronimo stated that there were a few reasons why comments were made regarding the cantilever: 1) there is an aesthetic reason which he would discuss later how it affects the traditional look and massing of the house and 2) the more practical reason in that there is a substantial amount of volume above the volume that is already there. The cantilever creates a problem with its form in addition to the problems with its aesthetics. He recognized the intent of the cantilever for the narrower home. He asked if consideration was made for a different massing over the garage: roof forms, dormers, anything that would be in keeping the traditional style of the community. Mr. Anness indicated that the cantilever was an aesthetic decision. Mr. DiGeronimo indicated that the proofs must still be made since it was a variance application.

28. There was a discussion regarding why a cantilever was introduced. Mr. Anness stated that he understood and expressed that there are many different ways to address the front facade. This was the way he chose to do the design.

29. Mr. Anness suggested that the Board accept the house the way it is currently designed.

30. Ms. Andrews asked about the garage. Mr. Anness discussed the intention of the garage addition. It would have a nice garage door. Ms. McCartin asked if the garage could be moved further into the house (to the right). Mr. Anness indicated that it could not be; there is a basement. He then retracted his statement; it was possible but it would be cost prohibitive. Applicant would have to demolish much of the house.

31. Mr. Cosenza asked if the project will truly be an addition; he asked how much of the dwelling would be removed in order to accommodate the renovation and addition. He raised

his concern regarding applications that come in indicating that they are doing a second story addition, only to find that most of the house is brought down to the foundation anyway.

32. Mr. Anness indicated that the house will come down to the top of the first floor place. Most of the perimeter walls will remain. It will not be a tear-down rebuild. Mr. Cosenza indicated that he was OK with this reasoning. Having this testified to benefit Applicant. By explaining to the Board and the public that since the house was not being demolished, therefore, the garage could not be moved in (as asked by Ms. McCartin). There would be issues had the house come all the way down. Mr. Anness indicated that the plan was to keep as much of the house as possible. He believed that he had addressed all of the concerns.

33. Mr. Rabinowitz asked why there was no window on bedroom #3. Mr. Anness indicated that could be done. Mr. Rabinowitz indicated that it would address the boxy-nature of the top-right portion of the addition.

34. Ms. McCartin generally understood that moving the garage in would create an issue with the fire wall but asked why the garage could not go above a basement. Mr. Anness indicated that structural support would have to be added to the basement and the basement would possibly have to be filled in. He has done it before but it is cost-prohibited and would require demolishing down to the basement. Mr. Topping concurred.

35. Mr. Topping noted that earlier testimony provided that the existing house did not fit in. He opined that it was an interesting comment being that it was a 70 feet wide. Then there was testimony and there were concerns about the additional volume. Given the variance application, he opined that there should be an effort to mitigate the variance that is being sought in order to lessen the impact that the scale of the house would have. This was not a square footage hardship.

36. Mr. Anness discussed the configuration of the dwelling. He indicated that the front yard variance was an issue; there is the corner lot; the house is on an angle. It was presented this way. He opined that this was the best way to address the issues for his client.

37. Mr. Rabinowitz asked about the basement. Mr. Anness indicated that there is a bathroom. Mr. Tobin asked if there would be bedrooms in the basement. Mr. Parikh indicated that there would not be.

38. There being no further questions from the Board, Mr. Topping opened the hearing to the public for questions for Mr. Anness.

39. William Jeney, 216 Norris Avenue, asked about the variances being requested. He wanted to make sure Applicant was not seeking a bulk variance and only a setback variance.

40. Mr. Renaud clarified that the original application was for five (5) variances: minimum front yard setback from Norris Avenue, which has now been withdrawn, along with minimum side yard setback along the garage side where 10 feet is required and 5.5 feet is proposed, width of the driveway at the apron, which pertains to the existing driveway, public sidewalk along Wadsworth Avenue and a private walkway to a public sidewalk. There were five (5) variances, now there are four (4) variances.

41. Mr. Jeney asked if there were no longer any bulk variances. Mr. Renaud stated no, in terms of the size of the house, there are no variances, but some of the variances being requested are commonly called bulk variances.

42. Nancy Neuman, 228 Norris Avenue, asked if the house would be classified as a two-family, if there would be separate entrances and if the house has been evaluated structurally. She had been in the house before. Mr. Anness stated no, it would be a single family dwelling with one primary entrance, one kitchen. He will do the structural evaluation; that is the next step.

43. Mary Kohl, 12 Aldrich Avenue, rhetorically asked when does a desire become a need? Mr. Anness indicated that he did not understand the question. Ms. Kohl recalled testimony where it was stated that the two-car garage was necessary. Mr. Anness opined that the two-car garage was not uncommon.

44. Ms. Andrews asked how many two-car garages there are in the neighborhood. Ms. Kohl said that there were very few. She noted that the new Fox & Foxx house would have a two-car garage. Her house only has a one-car garage.

45. There being no further questions from the public for Mr. Anness, Mr. Topping closed the public portion.

46. Mr. Fletcher was sworn in, qualified and gave testimony. He indicated that he is a licensed engineer and planner and he would testify as an engineer and a planner.

47. Mr. Fletcher indicated that the property is a corner lot in the R-1 zone. The lot is 12,000 square feet. Applicant is seeking to construct a second floor addition as well as a small expansion to the single-car garage to a two-car garage. He indicated that the allowable building lot coverage is 30%. Proposed is 22%. The property will not be overbuilt. Allowable impervious coverage is 50%. Proposed is 34%.

48. Mr. Fletcher addressed comments in the Planners' report; with respect to sidewalks, there is a sidewalk on the Norris Avenue side, there is no sidewalk on the Wadsworth Avenue side. Applicant seeks a waiver of the requirement to install the sidewalk; however, Applicant recognized that the Board wants to see one and is willing to do that. There is an existing private walk that connects to the driveway. With respect to comment #5, he has attempted to address the concerns regarding landscaping. There will be foundation plantings. Applicant has assured that the stone area in the front yard area will be history; it will be restored

as lawn area.

49. Mr. Fletcher further testified that site drainage is essentially unchanged. The existing drainage patterns will remain the same. The existing driveway exceeds the standards as it is wider at the apron. It is required to be 12 feet, 15 feet exists and flares out to 18 feet. The driveway (width at the apron) will remain. Although there it is an existing non-conformity with respect to the front yard setback, the second floor addition was pulled back to eliminate the variance. The main variance being requested is side yard setback. The existing setback is 10.5 feet. Behind the garage is the family room, which is set back 5.2 feet from the same lot line. Applicant seeks approval to construct a first floor addition that will add 5 feet to the garage, bringing the setback to 5.5 feet. The extension for the garage will only be one-story. They would be happy to work with the Borough to provide landscaping to mitigate the impact of the one-story addition.

50. Mr. Topping noted that the proposed 5.5 foot setback is not for the entire length of the one-story addition, given that the house is on an angle.

51. Mr. Fletcher confirmed that only the corner of the garage would be within the setback area. It will be approximately seven (7) to eight (8) feet in length before it hits the 10 foot setback line. It would be approximately less than 20 square feet of area that violates the setback area. He opined it is a *de minimus* deviation. He does not believe it would have an adverse impact on the neighborhood.

52. There being no further questions from the Board, Mr. Topping opened the hearing to the public for questions for Mr. Fletcher. There being none, Mr. Topping closed the public portion.

53. Mr. Parikh indicated that he had no further witnesses.

54. Mr. Topping opened the hearing to the public for comments regarding the application. Donald Coleman, 12 Wadsworth Avenue, was sworn in by Mr. Renaud. Referring to the elevation, he believed it would be a beautiful house but opined that is overbuilding the property. It fits better on a five (5) acre lot. His property is just to the left. It will affect him the most because it will only be five (5) feet away. His house was built in the 1960s by his parents. He has been in the house for a very long time. He recalls in the mid-1960s, his father was OK with the family room addition. He welcomed Applicant to the neighborhood, but is still not happy with the five (5) foot setback. He preferred not to see a two-car garage. The neighborhood features homes that are spread out a little bit. Most of the homes have a one-car garage. If Applicant could stay within the same footprint, he would be OK.

55. Mr. Rabinowitz asked about Mr. Coleman's home with respect to the side lot line. Was the house itself closer to the property line or closer to the back? Mr. Parikh indicated that Mr. Coleman's house is about 25 to 30 feet away from the proposed garage. Ms. Andrews indicated that photographs were submitted as part of the application and asked Mr. Coleman to further describe the area between the homes. Mr. Coleman indicated that the property line was generally where his red car was located, as shown on the photos attached to Mr. Parikh's October 22, 2014 submission. Mr. Topping if his driveway was Y-shaped because it appeared to be that the car was parked on lawn area. Mr. Coleman indicated he black-topped the whole area. Mr. Cosenza indicated that he would have to research this further.

56. Nancy Kohl, 12 Aldrich Road, was sworn in by Mr. Renaud. She indicated that she has lived in the neighborhood for 43 years. She has been a realtor for many years. A number of her neighbors have been putting additions to the home. There are a few homes that have been torn down and rebuilt. There is currently one on Wadsworth Avenue. There were others on Clive

Street and Norris Avenue. She can probably count on one hand the number of homes with two-car garages. Most of them are not used for cars; they are used for storage because some people do not have the luxury of having a basement. She indicated that she has a concern regarding water in basements. She asked the Board to consider seriously that some of her neighbors would consider a second car garage as a luxury. Most of the neighborhood has young drivers who park in the driveway and street. She was concerned about setting a precedent. This house will have an impact on the neighbors.

57. Nancy Neuman, 228 Norris Avenue, was sworn in by Mr. Renaud. She indicated that she has a couple issues: 1) the visual impact and the size of the structure on the lot and 2) structural issues with the dwelling. She is concerned with the view into her house from the proposed second floor addition. She had previously been inside the house. There was a crack in the bathroom and she is concerned.

58. James Guinane, 228 Norris Avenue, was sworn in by Mr. Renaud. He indicated that he is grateful for all of the comments that have been made, including those by Nancy Neuman. He agrees with them. His property looks directly at the subject property. He is elated at improvements being made; however, the idea of a mega mansion is unsatisfactory. He thanked the Board for its time.

59. Larry Soto, 227 Norris Avenue, was sworn in by Mr. Renaud. He wished to support his neighbors and to ask the Board to balance their concerns with the needs of Applicant. He stated that the second garage will alter the character of the neighborhood. He discussed change.

60. Mr. Jeney, 216 Norris Avenue, was sworn in by Mr. Renaud. He indicated that he has lived in the neighborhood since 1992. He specifically bought into the neighborhood because

of the space that the lots provide. In 2000, he put an addition on his house that maintained the character of the neighborhood. No variances were necessary. The space between the houses was important. His concerns are that if the Board grants this setback variance, it would set a precedent. He believes it would totally change the character of the neighborhood if this was allowed.

61. George Connors, 19 Wadsworth Avenue, was sworn in by Mr. Renaud. He supports the concerns raised by his neighbors. He has jogged and walked by the property since 1998 and does not see how the proposed elevation could possibly be done. He is just here to support his neighbors. He thinks it is a nice neighborhood. He cannot fathom how the proposed home could be built without demolishing everything.

62. There being no further comments from the public, Mr. Topping closed the public portion.

63. Mr. Renaud asked if there were any final comments from Applicant.

64. Mr. Anness opined that the reason most existing homes were constructed with one-car garages because it was built at a time where one car was only necessary. Where possible, it can be done. Some places you could not have a two-car garage. 30 foot homes could not accommodate a two-car garage. Here, there is an opportunity to design for the family. He indicated that how the home is designed is how it will be built. He advised the Board and public that it was going to happen, even without the garage. He indicated that it was not a threat.

65. Members of the public spoke about what they have done to their property and the parking of vehicles in driveways and in the street.

66. Mr. Topping recognized the neighbors comments were about the bulk of the house. The main variance was only for the corner at the back of the garage. There are certainly

changes in town. The architect, while he indicated was not a threat, made a very clear point that if they kept the one-car garage, they could make the house even bigger. That is the reality that the Board and town face. He indicated that the engineer testified that the coverage is still quite low. There are certainly scale and bulk issues. A five (5) bedroom house should probably have a two-car garage.

67. Ms. Sisko agrees with Mr. Topping. While the architect said he did not make a threat regarding the bulk of the house, it was a threat. She indicated that she is not bothered by the two-car garage but is bothered by the bulk. As you drive down Wadsworth, this will be very noticeable. Despite the fact that it would be built anyway, she is troubled by this.

68. Ms. Andrews indicated she was troubled too. She recalled earlier testimony indicated that a two-car garage was possible, to which Mr. Anness indicated that it would be cost-prohibited.

69. There was a discussion regarding the two-car garage and possible structural issues, to Mr. Anness indicated that he would have to do a structural analysis. He would correct whatever problems there would be.

70. Ms. Andrews indicated that there are still a lot of issues. She is not inclined to vote against a family having a two-car garage but still has issues with the general design. Applicant knows what they bought in and while there is some bulk, but to infringe on the neighbors next door, that is an issue. She recognized the big turnout and observed the same sentiment. She opined that it should be considered.

71. Mr. Renaud indicated that the Board should first address the legal issues. Applicant seeks several variances, only one (1) of which he would characterize as significant; the side yard setback for the garage expansion. The sidewalk and walkway would have to be put in

anyway and the driveway is existing. If the board denies the walkway and sidewalk variances, the only variance for a new condition is the side yard setback with respect to the garage. He indicated that the variance could meet the criteria of either the C1 or C2 variance. He noted that there may be a hardship for the footprint of the existing home, which may be for the grounds of a C1 variance. The C2 variance is a weighing variance: the Board has to decide if there is a benefit to the community by granting the variance and, if so, whether the benefit outweighs any detriments that arise with respect to the granting of that variance. Those are the legal issues. He opined that the Board should focus on the side yard setback. For the benefit of the public, it was explained that Applicant could walk out without the variance for the five (5) feet, they could bigger exactly that house without the five (5) feet on the corner, regardless of what this Board does. There may be talk about how could the Board allow this to happen, the reality is that the Board has no control because except for the corner of the garage, the rest of the proposal is permitted by ordinance. Applicant is allowed to have a two-story house of that size and larger. It could have more building and more impervious coverage. The Board could grant the application with conditions, things that could change the proposed residence to make it more compatible. If the application is denied, the Board could not impose conditions and the neighborhood could be stuck with a 3,800 square foot house that the Board could not do anything about.

72. The Board proceeded to discuss the application. Mr. Topping indicated he would prefer the public sidewalk. Ms. Sisko agreed. Ms. McCartin noted the dangerous intersection. Mr. Rabinowitz indicated that he would vote in favor of the two-car garage with substantial landscaping to the point where it would essentially go away. He opined that, aesthetically, the house would look bad with just a one-car garage. Mr. Topping agreed with Mr. Rabinowitz's comments but questioned how that could be specifically addressed.

73. There was a discussion regarding the landscaping. Mr. Tobin requested that the landscaping be subject to the approval of the Planner. Mr. Renaud clarified that it was more than foundation plantings but some sort of hedge or other mitigating landscaping.

74. Ms. McCartin observed that a lot of new houses have two-car garages. Mr. Rabinowitz opined that because there are typically two (2) people in the family who drive cars and they may want to park both cars in the garage. In a house of this size, to picture it with a one-car garage underneath those windows is aesthetically bad. Mr. Topping opined that a two-car garage for a five (5) bedroom house was better.

75. Ms. Andrews recognized the opposition from the neighbors. Mr. Coleman indicated that his house has five (5) bedrooms and only a one-car garage.

76. Board members discussed the other variances. Mr. Fletcher indicated that Applicant would be willing to install the public sidewalk and private walkway. The Board discussed the other variances and possible conditions.

WHEREAS, the Metuchen Board of Adjustment, after hearing the testimony in support of the application, and after considering the public questions and comments, and the recommendations of the Board Engineer and the Board Planner, has made the following findings of fact and has drawn the following conclusions of law:

1. The Board of Adjustment of the Borough of Metuchen has proper jurisdiction to hear the within matter.

2. The property is designated as Block 16, Lots 1, 2, 3, 4, 5, and 6 as shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 4 Wadsworth Avenue.

3. The property is located in the R-1 Zone District. The property currently consists of a ranch-style single-family home on a 12,000 square foot lot. Applicant proposes to expand the existing dwelling by constructing a second floor addition within the existing footprint with a small first floor expansion to accommodate a two car garage which would encroach into the side yard setback on the north side of the lot, with a new deck to be constructed at the rear of the property.

4. The original application and plans would have required a front yard setback from the Norris Avenue front/side line, but Applicant's new plans stepped back the second floor addition so as no longer to require this variance.

5. The Board finds that the revised plans, prepared by license professionals, are an improvement over the original plans which were prepared by the homeowner. Additionally, the revised plans no longer require a front yard setback variance from Norris Avenue.

6. After discussion among the Board members, it was determined that any approval would be conditioned on Applicant's providing foundation plantings/landscaping, a row of large screening shrubs along the side of the garage, detailing of the front cantilevers and the window in the front of bedroom number three, and windows in the garage, subject to the approval of the Board Planner, and on the variances from §110-112.7.I for the public sidewalk along Wadsworth Avenue and from §110-112.7.J, for relief from the walkway requirement being denied. Accordingly, the only requested relief being granted would be the side yard setback variance with respect to the garage and the variance, which is an existing condition, for the width of the driveway at the property line and at the curb line.

7. The Board finds that the relief requested, as revised by the revised proposed plans, may be granted, because the Applicants have demonstrated that the purposes of the

Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment, because the granting of the requested variances will enhance the existing residence and will alleviate somewhat the effect of the side yard variance by the effect of the plantings that will be required, keeping in mind that it is relatively small triangular portion of a corner of the proposed garage which actually encroaches into the side setback area.

8. The Board further finds that the relief requested may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance, in that the size of the subject lot, which exceeds the minimum lot size in the Land Use Ordinance, ameliorates the effect of the side yard setback variance granted and because the other variance, relating to driveway width at the apron, is an existing condition.

9. The Board finds that the granting of the application for C-variances should be conditioned upon the Applicant's agreement to comply with the conditions contained in this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Borough of Metuchen that the application for C variances of Priti Parikh be and is hereby granted with respect to the minimum side yard setback and driveway width at the apron, an existing condition, and denied as to §110-112.7.I and §110-112.7.J in accordance with the application and plans filed herein, subject to and conditioned upon the following:

A. Publication by the Applicant of a notice of this decision in an official newspaper of the Borough of Metuchen and return of proof of said publication to the Secretary of the Board of Adjustment.

B. The Applicant furnishing proof to the Secretary of the Board of Adjustment that no fees, escrows or assessments for local improvements are due or delinquent on the property in question. No permits, if any, nor deeds of subdivision for minor subdivision maps, shall be executed for filing until all fees and escrows are paid in full.

C. The application shall be subject to any other outside agency approvals as may be necessary, including, but not limited to, Middlesex County Planning Board, Borough of Metuchen Fire Department, Middlesex County Utilities Authority, Middlesex Water Company, Metuchen Shade Tree Commission, and Freehold Soil Conservation District.

D. The Applicant shall reimburse the Metuchen Board of Adjustment and/or the Borough of Metuchen for professional fees associated with this application.

E. Applicant shall comply with the following additional conditions:

1. The variances granted herein are limited to those requested and granted as specifically set forth herein. No other variances or waivers are granted or implied. No other physical improvements are authorized by this resolution. The application for the front yard setback from Norris Avenue was withdrawn. The revised plans reviewed by the Board at its January 8, 2015 meeting reflected the stepping back of the second floor from the Norris Avenue sideline. The variances applied for from §110-112.7.I and from §110-112.7.J, which require public sidewalks in accordance with §110-148 and which require private walkways in accordance with §110-149, respectively, are denied and Applicant shall submit revised plans conforming with these ordinances.

2. Applicant shall revise the plans to include adequate foundation plantings and a substantial screening hedge including a row of arborvitae or similar planting between the two encroachment points of the north side of the property.

3. Applicant shall include a window in bedroom number 3 on the second floor at the front, and shall put windows in the garage.

4. Applicant shall detail the architectural enhancements to the front cantilever.

5. Applicant shall prepare and submit revised plans for the review and approval of the Board Planner and Board Engineer within sixty days (60) of the date of this resolution. Said plans shall review and revise the dimensions and zoning schedule where applicable. The landscaping and architectural features, including the windows and other features shall specifically be subject to the approval of the Board Planner.

6. Approval of the variances granted shall expire one year from the date of this resolution if construction has not commenced within that time period, provided, however, that the Board may extend the time period of such approval for one period of one year in accordance with §110-41 of the Land Development Chapter.

BE IT FURTHER RESOLVED that the Applicant understands and acknowledges that all of the conditions contained in this resolution and the record of proceedings in this matter including any agreements made or plans submitted by the Applicant were essential to the Board's decision to grant the approval set forth herein. Breach of any such conditions or the failure of the Applicant to adhere to the terms of any agreement or condition may result in revocation of the within approval and may terminate the right of the Applicant to obtain any further permits or any other governmental authorizations necessary in order to effectuate the purpose of this resolution. The Applicant has been advised by this resolution that all conditions contained in this resolution are to be complied with and that breach of any of the conditions shall be rectified before the issuance of any certificate of occupancy.

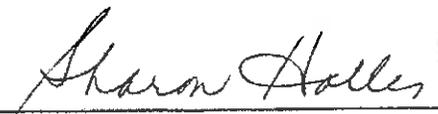
BE IT FURTHER RESOLVED that nothing herein shall be interpreted to excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental subdivisions as set forth in any laws, ordinances or regulations.

BE IT FURTHER RESOLVED that this resolution shall serve as one of memorialization of the action taken by this Board at its meeting of January 8, 2015 and effective as of that date.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Board of Adjustment to be a true copy, be forwarded to the Zoning Officer, the Borough Clerk, Borough Planner, Borough Engineer, Borough Attorney, Borough Construction Official and the Applicant herein within ten (10) days of the date hereof.

BE IT FURTHER RESOLVED that the Chairman and Secretary be and are hereby authorized to sign any and all documents necessary to effectuate the purpose of this resolution, provided the Applicant has complied with the above-stated conditions.

I hereby certify the foregoing Resolution to be a true copy of the Resolution adopted by the Metuchen Zoning Board of Adjustment at its meeting of February 26, 2015.



Sharon Hollis, Secretary

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING
D VARIANCE AND PRELIMINARY AND FINAL SITE PLAN APPROVAL
TO
NASSAU DEVELOPMENT VII, LLC
12 JERSEY AVENUE
BLOCK 49, LOT 56
APPLICATION NO.: 14-1053

WHEREAS, Nassau Development VII, LLC, hereinafter referred to as “the Applicant,” is the owner of Block 49, Lot 56 as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 12 Jersey Avenue, in the Borough of Metuchen, County of Middlesex and the State of New Jersey; and

WHEREAS, the Applicant has applied to the Metuchen Zoning Board of Adjustment for approval of D variance and preliminary and final site plan approval; and

WHEREAS, the Metuchen Board of Adjustment held a public hearing on said application on January 8, 2015 after compliance with the notice, service and publication requirements of N.J.S.A. 40:55D-12; and

WHEREAS, at said hearing, the Board of Adjustment considered the following documents:

1. Zoning permit.
2. Board of Adjustment Application for Development dated December 23, 2014.
3. Proof of payment of taxes and assessments.
4. Application and escrow fees.
5. Review letter of Maser Consulting, P.A., by Lisa R. Di Franza, P.E., C.M.E.,

Board Engineer, dated January 7, 2015, revised January 8, 2015.

6. Memorandum of Looney Ricks Kiss, Inc., Jim Constantine, PP, Borough Planner, and Mike DiGeronimo, AICP, P.P., dated January 7, 2015.

7. Architectural plans prepared by Marcille Architecture dated December 22, 2014.

8. Package of photographs headed "Use Variance Application, 12 Jersey Avenue Church."

9. "Sign Detail" for the International Bethel Church, New Jersey, House of Prayer for All Nations.

WHEREAS, the Applicant was represented by Eric Berger, Esq.; and

WHEREAS, the subject property is situated in the B-2 Neighborhood Business Zone District and contains 97,726 sq. ft. (2.243 acres). The property has 299.89 feet of frontage along the east side of Jersey Avenue and 134.15 feet of frontage along the north side of Durham Avenue. The property currently contains a one-story office building attached to a larger one-story, double height building that contains multiple tenants, a separate three-story building with multiple tenants, walkways and associated parking facilities; and

WHEREAS, the Applicant proposes to lease 2,500 sq. ft. of vacant space in the southwest corner of the existing one-story building at 12 Jersey Avenue to the International Bethel Church of New Jersey for an 81 seat house of worship; and

WHEREAS, the Applicant requires a D(1) variance as follows:

§110-76A, does not permit houses of worship in the B-2 Neighborhood Business District; and

WHEREAS, Applicant requires the following waiver/exception:

§110-154, would require 148 parking spaces where 94 parking spaces are currently provided and are proposed for the entire site; and

WHEREAS, Metuchen Board of Adjustment heard and received testimony and evidence as follows:

1. Eric Berger was sworn in and gave testimony. Mr. Berger testified that he is both the attorney and principal for the owner of the property at 10-26 Jersey Avenue. He is seeking a D(1) variance to convert a portion of the existing Pet Pals tenancy to a house of worship, which is an inherently beneficial use. He recognized that the use is not a permitted use in the B-2 zone. He referred to a 2005 case entitled *House of Fire Christian Church v. Zoning Board of Adjustment of the City of Clifton and the City of Clifton* where the Appellate Division determined that a house of worship was an inherently beneficial use.

2. Mr. Berger indicated that the subject site is a mixed-use site in the true sense of mixed-use. It is a child-friendly site. There are apartments, a dance school, a Montessori school, a Chinese after-school program, retail use, hair salon, dry cleaner and office uses. The Pet Pals Resort boards and groom pets. There are 94 parking spaces on the site. The building fronts on both Jersey and Durham Avenues. On Jersey Avenue, which is a short stub street, there are a couple of businesses including Tom's Automotive and the Department Public Works, and the subject site. Most of the tenants are closed on Sundays, with only CrossFit and Pet Pals open with limited hour on Sundays. Sunday would be the day of services for the proposed church.

3. Mr. Berger further indicated that he submitted photographs of the site and an architectural plan prepared by Mark Marcille that illustrates the site and changes to the tenancy. All work will be within the confines of the building. The only change is the change of use. 2,500 square feet of the 40,000 square foot space will be for the church. One of the issues raised in the Engineer's review letter is that the survey is 12 years old. Mr. Berger testified that there have been no changes to the buildings on the site. The site was purchased in 1999; there were

approvals in 2002-2003 to build an additional building. Since then, there have been no further site developments at the site. With respect to comments regarding ADA spaces, he indicated that there are five (5) handicap-accessible spaces with signage, to which he would have his planner/engineer testify as to existing site improvements later.

4. Mr. Berger continued and indicated that there will be no improvements to the site as part of this application other than one (1) sign over the Jersey Avenue door. The parishioners will enter from Jersey Avenue. All of the utilities necessary for the premises already exist. Refuse and recyclables are stored behind the 3-story building. He indicated that there is adequate capacity. It is a shared dumpster for the site.

5. Mr. Renaud stated that he agreed with Mr. Berger that the house of worship can be viewed as an inherently beneficial use. That is one of the exceptions for the need of proof of positive criteria under a D variance. Applicant would not need to show additional special reasons. Applicant still has to demonstrate that the application meets the negative criteria, which is that the application can be granted without substantial detriment to the public good and without impairing the intent and purpose of the zone plan and zoning ordinance. The testimony so far has addressed that. There is also the parking waiver which needs to be addressed.

6. Mr. Berger introduced Reverend Benny Rusli as his witness.

7. Rev. Rusli was sworn in. He is the pastor of the church. He indicated that church currently rents space 18 West Inman Avenue in Rahway, New Jersey. They want to come to Metuchen because the every week they have to set up the sound system and then, after the service, they have to put it away. They would like a more permanent space. They have services on Sundays from 9 a.m. to 2 p.m. They have approximately 50-60 parishioners. During the week, they meet once or twice a week from 7 p.m. to 9 p.m. The church is a house of prayer for all

nations, but mostly in the Indonesian language. 90 to 95% of the parishioners are from Middlesex County. In reviewing the architectural plan, he indicated that there is seating for 81 persons along with a kitchen, classrooms and office space. They would be involved in the community.

8. Mr. Topping asked about the weeknight activities. Rev. Rusli indicated that there would be smaller gatherings for prayer and study from 7 p.m. to 9 p.m.

9. Mr. Rabinowitz and Mr. Renaud asked about special events and about the maximum amount of people that would attend such special events. Rev. Rusli indicated that they would work within the space. Ms. Sielski asked if the bulk of the congregation comes on Sundays. Rev. Rusli stated that was the case.

10. Mr. Berger introduced Joseph Schaffer, Applicant's Engineer. Mr. Schaffer was sworn in, qualified and gave testimony. He is a professional engineer and planner.

11. Mr. Schaffer presented exhibits A-1, an aerial photograph of the site, and A-2, an updated parking analysis. He indicated that churches are not technically allowed in the B-2 zone. He theorized as to why the use was dropped from business zones (in the 1970s), which was to promote walkability in business zones. He does not see this as an issue for this site as this site is a destination. People drive to this site. He opined that the application preserves natural resources because it utilizes existing building and parking. There will be no changes to the site. They will not be building anything new for this new use to be in Metuchen. Traffic for the use will see a traffic generation of 27 cars entering and leaving the site. The church would utilize parking when other uses are not using parking.

12. With respect to Exhibit A-1, Mr. Schaffer illustrated that the site permits ingress from Durham Avenue and forces circulation around to the back of the site and out onto Jersey

Avenue, allowing for stacking of approximately 20 cars on Jersey Avenue. He described the surrounding uses. What is being proposed at this site is not out of the ordinary as compared to other uses at the site. There are existing sidewalks, landscaping, lighting and signage already in place and they will be maintained.

13. With respect to negative criteria, Mr. Schaffer opined that there is no substantial detriment to public good. There is the issue of the B-2 versus the residential zones. In this particular case, he does not see this as a detriment because of the separateness of this site from the downtown area. It does not infringe on that idea.

14. Mr. Schaffer indicated that he analyzed the parking requirements overall as well as the peak demand on Sundays. It really comes down to the Sunday analysis and he found that there is no parking deficit specifically on Sundays. By centralizing the congregation to Metuchen within Middlesex County, vehicle miles are being reduced, which benefits the public. In addition to the 94 parking spaces on the site, there are many on-street parking spaces available on Jersey Avenue directly in front of the tenancy. He indicated that, on especially nice weather days, these spaces may be utilized first.

15. Mr. Rabinowitz asked about the handicapped parking spaces. Mr. Berger noted that four (4) are required, and five (5) exist and will be maintained. Mr. Schaffer noted the locations of the five (5) handicap parking spaces on Exhibit A-1.

16. Ms. Sisko noted that Pet Pals is open with limited hours on Sunday and that people park right on Jersey Avenue and people run in and out. They are open on Sundays for drop-offs from 7 a.m. to 10 a.m. She further raised her concern about the noise. The church will be right next to Pet Pals. Mr. Berger noted that the church is aware of the proximity of Pet Pals. A soundproof wall is being considered.

17. Mr. Topping indicated he is an advocate of shared parking and asked what the recourse is, if it is found that there may eventually be parking issues at the site.

18. Mr. Renaud indicated that the Board could not really limit it. The Board would have to rely on the property owner to have enough sense not to lease to tenants who would also be open on Sundays. Prospective tenants would look at that issue as well. Theoretically, a condition could be fashioned, but it would be difficult to enforce. Mr. Cosenza noted he does not work Sundays. Mr. Berger noted that the site, even without the church, is heavily underparked. Mr. Cosenza concurred. He indicated that there is recognition that the parking requirements are restrictive and opined that if the parking analysis was made on an hourly basis on a weekday, it would find that parking is sufficient. Mr. Berger has come in with many applications and it was found as a finding of fact that parking was sufficient. The weeknight utilization of the church (7 p.m. to 9 p.m.) will occur when most other businesses are closed. In effect, there is no parking increase at the site during the week. Mr. Topping indicated that answers his question.

19. Ms. McCartin noted the small size of the classroom as indicated on the plans. Mr. Renaud indicated that that the proposed construction is subject to the building code. There were other questions related to fire wall but all that is subject to the building code as well. Mr. Renaud did have a question regarding lighting given that lighting is not shown on the plans and that testimony was provided that there would be some activity in the evenings. Mr. Berger indicated that there are lights on the building and it is pretty well lit along Jersey Avenue. That was approved as part of the 2003 Planning Board approval.

20. There being no further questions from the Board, Mr. Topping opened the hearing to the public for questions and comments regarding the application. There being none, Mr. Topping closed the public portion.

WHEREAS, the Metuchen Board of Adjustment, after hearing the testimony in support of the application, and there being no questions and comments from the public, and after considering the recommendations of the Board Engineer and the Board Planner, has made the following findings of fact and has drawn the following conclusions of law:

1. The Board of Adjustment of the Borough of Metuchen has proper jurisdiction to hear the within matter.

2. The property is designated as Block 49, Lot 56 shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 12 Jersey Avenue.

3. The property is located in the B-2 Neighborhood Business District. Applicant's proposed use is not a permitted use in the B-2 Zone.

4. The property consists of 97,726 sq. ft. of land on which several buildings are situate. There are existing parking lot improvements. The property is a mixed-use facility.

5. The subject property is a situated in the B-2 Neighborhood Business Zone District and contains 97,726 sq. ft. (2.243 acres). The property has 299.89 feet of frontage along the east side of Jersey Avenue and 134.15 feet of frontage along the north side of Durham Avenue. The property currently contains a one-story office building attached to a larger one-story, double height building that contains multiple tenants, a separate three-story building with multiple tenants, walkways and associated parking facilities.

6. The Applicant proposes to occupy 2,500 sq. ft. of vacant space in the southwest corner of the existing one-story building at 12 Jersey Avenue for an 81 seat house of worship for the International Bethel Church of New Jersey.

7. The Board finds that the proposed use of the 2,500 sq. ft. of space in the subject premises is an inherently beneficial use.

8. The Board further finds that, based on the testimony of Mr. Berger as well Mr. Schaffer, and the comments of the Zoning Officer, Mr. Cosenza, that the parking on the site is adequate for the existing use and for the proposed use, and that the mixed-use nature of the property and the timing of the existing uses makes the total number of parking spaces which would otherwise be required under the ordinance unnecessary.

9. The Board finds that the application for the D variance requested for the house of worship use may be approved because the proposed use is an inherently beneficial use, satisfying the positive criteria, and that the granting of the requested variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance and that there will be no substantial detriment to the public good resulting from the granting of the requested variance, for the reasons testified by the witnesses, particularly the planning testimony of Mr. Schaeffer.

10. The Board further finds that the application for preliminary and final site plan approval with D variance and a parking waiver/exception may be granted as being in general conformance with the intent and purpose of the site plan regulations. Accordingly, the Board finds that if the Applicant utilizes the property in accordance with the submissions herein and the representations and agreements made during the hearing, the general purpose and intent of the provisions of the site plan regulations and the zone plan and zoning ordinance will be complied with.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Borough of Metuchen that the application of Nassau Development VII, LLC for D variance, and parking waiver/exception, and for preliminary and final site plan approval be and is hereby granted in

accordance with the application and plans filed herein, subject to and conditioned upon the following:

A. Publication by the Applicant of a notice of this decision in an official newspaper of the Borough of Metuchen and return of proof of said publication to the Secretary of the Board of Adjustment.

B. The Applicant furnishing proof to the Secretary of the Board of Adjustment that no fees, escrows or assessments for local improvements are due or delinquent on the property in question. No permits, if any, shall be executed for filing until all fees and escrows are paid in full.

C. Applicant shall prepare and submit revised plans in compliance with comment #5 on the Board Planner's January 7, 2015 memorandum within sixty (60) days of the date of this resolution.

D. The application shall be subject to the approval of the following outside agencies or a letter of no jurisdiction: Borough of Metuchen Fire Department, Freehold Soil Conservation District, Middlesex County Planning Board, Middlesex County Utilities Authority, Middlesex Water Company, New Jersey Department of Transportation for access and drainage, and any and all other agencies that may have jurisdiction.

E. This approval is subject to compliance with the Borough Affordable Housing Ordinance, including payment of any fees required.

F. The granting of the application is expressly made subject to and dependent upon the Applicant's compliance with all other applicable rules, regulations, ordinances of the Borough of Metuchen, County of Middlesex and State of New Jersey. No further deviations

from the zoning ordinance or site plan regulation shall be permitted without the approval of the Board of Adjustment of the Borough of Metuchen.

G. The Applicant shall reimburse the Board of Adjustment of the Borough of Metuchen and/or the Borough of Metuchen for professional fees associated with this application.

H. This approval is subject to execution and performance pursuant to a Developer Agreement with the Borough of Metuchen, to be prepared by the Borough Attorney, or a letter stating that no Developer Agreement is required.

BE IT FURTHER RESOLVED that the Applicant understands and acknowledges that all of the conditions contained in this resolution and the record of proceedings in this matter including any agreements made or plans submitted by the Applicant were essential to the Board's decision to grant the approval set forth herein. Breach of any such conditions or the failure of the Applicant to adhere to the terms of any agreement within the time required may result in revocation of the within approval and may terminate the right of the Applicant to obtain any further permits or any other governmental authorizations necessary in order to effectuate the purpose of this resolution. The Applicant has been advised by this resolution that all conditions contained in this resolution are to be complied with and that breach of any of the conditions shall be rectified before the issuance of any certificate of occupancy.

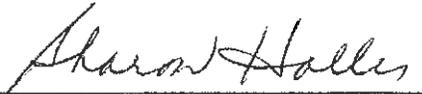
BE IT FURTHER RESOLVED that nothing herein shall be interpreted to excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental subdivisions as set forth in any laws, ordinances or regulations.

BE IT FURTHER RESOLVED that this resolution shall serve as one of memorialization of the action taken by this Board at its meeting of January 8, 2015 and effective as of that date.

BE IT FURTHER RESOLVED that a copy of this resolution, certified by the Secretary of the Board of Adjustment to be a true copy, be forwarded to the Zoning Officer, the Borough Clerk, Borough Planner, Borough Engineer, Borough Attorney, Borough Construction Official and the Applicant herein within ten (10) days of the date hereof.

BE IT FURTHER RESOLVED that the Chairman and Secretary be and are hereby authorized to sign any and all documents necessary to effectuate the purpose of this resolution, provided the Applicant has complied with the above-stated conditions.

I hereby certify the foregoing Resolution to be a true copy of the Resolution adopted by the Metuchen Zoning Board of Adjustment at its meeting of February 26, 2015.



Sharon Hollis, Secretary