

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING
D VARIANCE, C VARIANCES, WAIVERS/EXCEPTIONS AND
PRELIMINARY AND FINAL SITE PLAN APPROVAL

TO

ST. JOSEPH HIGH SCHOOL
145 PLAINFIELD AVENUE
BLOCK 2, LOT 1
APPLICATION NO.: 14-1032

WHEREAS, St. Joseph High School, hereinafter referred to as “the Applicant,” makes this application with the consent of the Brothers of the Sacred Heart, the owner of Block 2, Lot 1 as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 145 Plainfield 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, C variances, waivers/exceptions and preliminary and final site approval; and

WHEREAS, the Metuchen Board of Adjustment held a public hearing on said application on August 14, 2014 and September 11, 2014 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 July 30, 2014.
3. Proof of payment of taxes and assessments.
4. Application and escrow fees.

5. Review letter of R3M Engineering, Inc. by Katherine L. Hering, P.E., P.P., C.M.E., Acting Zoning Board Engineer, dated August 11, 2014.
6. Memorandum of Looney Ricks Kiss, Inc., Jim Constantine, PP, Borough Planner, and Mike DiGeronimo, AICP, P.P., dated August 11, 2014.
7. Plans entitled “Preliminary & Final Major Site Plan, Conditional Use Variance, St. Joseph High School Athletic Field, 145 Plainfield Avenue, Block 2, Lot 1, Borough of Metuchen, Middlesex County, New Jersey” consisting of eighteen sheets, dated May 17, 2014, April 24, 2014 and July 17, 2014, last revised June 20, 2014, by East Point Engineering, LLC.
8. Plan entitled “Building Plan and Adjacent Site” dated May 21, 2014, by Joseph B. DeAndrea, Jr., AIA, PA.
9. “Sign Detail” dated May 27, 2014, by East Point Engineering, LLC.
10. Report entitled “Test Pits/Permeability Testing” dated September 19, 2013, prepared by Melick-Tully and Associates, P.C.
11. Project narrative from East Point Engineering, LLC dated May 21, 2014.
12. Bleacher/press box height statement from East Point Engineering, LLC dated May 21, 2014, revised July 24, 2014.
13. Waiver submission narrative from East Point Engineering, LLC dated May 21, 2014.
14. Supplemental correspondence from Thomas Sharlow Jr., Esq., dated July 30, 3014.
15. Correspondence from Edison Township Planning Board Secretary, dated June 30, 2014.

16. Resolution dated March 15, 2001 of the Planning Board of the Borough of Metuchen pertaining to Block 2, Lot 1.

17. Letter dated February 29, 2001 to Planning Board of the Borough of Metuchen from Ed Wilson, NCARB, AIA, PP, for James Constantine, PP, Borough Planner, pertaining to Block 2, Lot 1.

WHEREAS, the Applicant was represented by Thomas Sharlow Jr., Esq.; and

WHEREAS, the Applicant proposes to replace, upgrade and expand its existing turf field and bituminous surface for track and field events, remove and install a new score board, replace existing chain link fencing, construct a one-story building with bathrooms, a concession area and a ticket booth, construct two stadium-type bleachers and replace the sign at the entrance to the High School that was damaged during a snow storm, and install a press box on the “home team” bleachers located closest to the adjacent railroad tracks, on the premises of St. Joseph High School, located at 145 Plainfield Avenue, in the northwestern-most corner of Metuchen in the R-1 Zone District; and

WHEREAS, the Applicant requires a D(3) variance as follows:

§110-87A(7): The existing high school is a permitted conditional use in the R-1 zone, but the proposed expansion of an active recreation (track and field) use does not conform to the requirements of §110-87A(7) of the Land Development Ordinance because active recreation is not permitted within the front yard. The existing buildings are set back at least 147.90 feet from the front property line, whereas the proposed track, part of the proposed improvement, will be located 99.2 feet from the front property line; and

WHEREAS, the Applicant requires the following C variances:

§110-112.2(A)(1), fence material, chain-link fence not permitted, chain-link proposed.

§110-112.2(B)(1)(a), fence height, 4 ft. permitted, 6 ft. proposed.

§110-112.2(B)(2)(a), fence-gate height, 6 ft. permitted, 8 ft. proposed.

§110-112.6(c), accessory structure height, 1-1/2 stories/20 ft. permitted, bleacher and press box structure-33 ft. proposed, replacement scoreboard-28 ft. proposed.

WHEREAS, the Applicant requires the following waivers/exceptions:

§110-185(E), only two signs permitted, not exceeding 16 sq. ft.; more than two signs proposed, including scoreboard sign with proposed 432 sq. ft. and free-standing replacement sign proposed with 21.50 sq. ft.

§110-186(B)(1-5), permitted sign size, maximum of 16 sq. ft., 5 ft. height from ground level, 4 ft. height of sign board, 6 ft. width and maximum letter height of 1.5 ft., scoreboard sign proposed at 432 sq. ft., 28 ft. from ground level, 18 ft. height of sign board, 24 ft. width and lettering of 2.5 ft. in height, free-standing sign 21.50 ft. and 6 ft. height from ground level; and

WHEREAS, Applicant requires the following waivers from checklist submission requirements:

C(3), environmental analysis maps.

C(11), urban/architectural design elements inventory.

N(5)(a), storm sewer profiles.

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

1. Thomas Sharlow Jr., Esq., Applicant's attorney, presented a brief opening statement on August 14, 2014. He indicated that the property is situate at 145 Plainfield Avenue, Block 2, Lot 1. He indicated that Applicant seeks D(3) conditional variance approval, as well as bulk variances, waivers/exceptions, and waivers of submission requirements. The property is

located in the R-1 zone. A high school is a permitted conditional use. There is one conditional use condition which is not met, that is, the prohibition against active recreation in the front yard.

2. Mr. Sharlow indicated that the subject is one of the largest and most beautiful properties in the borough. The Brothers of the Sacred Heart have been in the community for over 100 years. The property has been a high school since 1961. The proposed athletic improvements will improve the aesthetics of the site. Mr. Sharlow indicated that he would call Lawrence Walsh, the president of St. Joseph, Brent Papi, Jr., a professional engineer, and Lester Nebenzahl, a planner.

3. Mr. Sharlow cited N.J.S.A. 55D-66(b) and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C.A. §2000(cc) in contending that zoning ordinances and boards may not discriminate against religious schools.

4. Lawrence Walsh was sworn in and gave testimony. He is the President of St. Joseph High School and has served in that capacity for eight years. Prior to that, he held the post of principal, academic assistant principal and teacher. He is also a graduate of St. Joseph High School. He is familiar with the high school and with the Brothers of the Sacred Heart.

5. Mr. Walsh testified that the Brothers of the Sacred Heart first came to Metuchen in approximately 1900 and started St. Joseph High School in 1961. It has operated at the present site since opening in 1964. It is fully accredited. The Brothers of the Sacred Heart are a non-profit religious corporation.

6. Mr. Walsh indicated that the main high school was opened in 1964 and has had about 10,000 graduates since then. Currently, there are 36 Metuchen residents attending the high school. In 2001, a new addition was constructed after receiving approval from the Metuchen Planning Board.

7. Mr. Walsh testified that a track has existed at the present location since 1965. The school installed a new track at the present location in the mid-1980s.

8. Mr. Walsh indicated that application proposes to replace the existing track, which is used by the St. Joseph track team, cross-country and physical education classes, and which is also used by residents of Metuchen and Edison. There is a grass athletic field inside the track, which is used for football, lacrosse, soccer and physical education. It has been used as an athletic field since the early 1970s. The proposal is to replace the grass field with a turf field. The condition of the field is that there are bumps and dips and ankles can be sprained on the uneven field. The proposal is to install a synthetic turf field for the athletes. There will be a uniform surface and the field will be safer. Many schools are going to synthetic turf, including JFK, Iselin, Woodbridge and Edison JP Stevens High Schools. In terms of use, the turf field will be used by St. Joseph students and the teams they play.

9. Mr. Walsh testified that in the fall, the field will be used for football and soccer games. There are four to five home football games each year, held on Saturday afternoons. The average number of spectators is approximately 800 to 1000. When St. Joseph plays Bishop Ahr, the largest crowd attends, about 1,500. There are existing bleachers, aluminum, with seating for about 400 people. The rest of the spectators stand. A temporary fence was required to be installed to separate the players and spectators, in accordance with N.J.S.I.A.A. rules. There are approximately 386 parking spaces available.

10. Mr. Walsh offered the opinion that 386 parking spaces is adequate for the number of people that attend football games. The Father's Club and St. Joseph staff direct spectators for parking. Football parents help at games, some with parking. If excess parking is needed, it is

available on the yard in the rear of the high school buildings. St. Joseph also has permission to use available parking at the adjacent middle school, which has 160 parking spaces.

11. With respect to lacrosse, Mr. Walsh indicated that there are about 10 games in the spring, with attendance about 500. There could be a track meet or a baseball game at the same time, with about 100 fans, most of whom bring their own chairs. There are also aluminum portable bleachers, ten sets with about 40 seats each. Mr. Walsh indicated that parking for lacrosse, baseball and track is always adequate.

12. Mr. Walsh stated that he did not see a need for any more parking. He says that the use will not be intensified. There are 1,500 bleacher seats proposed. The spectators will be able to see better and be safer and the seating will make the game experience more enjoyable. The availability of bleachers will not change the number of people who attend football games. Up to about 1,500 fans are expected at games whether or not the bleachers are approved and whether or not a turf field is installed.

13. Mr. Walsh stated that as part of the proposal, a rusty chain-link fence will be replaced with a steel and vinyl coated chain link fence. Additionally, a 4 ft. chain-link fence will be installed to separate the players and fans, as required by the governing agency.

14. Mr. Walsh stated that a 105 sq. ft. building is proposed for bathrooms, a concession area and a ticket booth. Food is currently sold using grills and tables. The building will be made of red brick with green vinyl siding with a steel pull-down door.

15. Mr. Walsh indicated that a public address system is proposed. Currently, a portable public address system is used. The speakers will be pre-set at the factory. The press box will be on the home side. Sound from speakers will go across the field, toward the school, rather than toward the residences.

16. A new scoreboard is proposed. Now, there is a scoreboard on the railroad track side, installed around 1990. The new scoreboard will be located at the far end of the complex, away from the street.

17. An existing 3 ft. by 4 ft. free-standing sign was lost in a snow storm last winter. Applicant proposes to replace that sign as shown on the sign detail submitted with the application.

18. Exhibit A-1 was introduced. It shows at number 20 a sign from the early 1980s, number 18, the existing scoreboard, number 22, the replacement sign, number 19, an existing sign for which permits have been obtained, and number 21, a sign which has been present for many years.

19. Mr. Walsh reviewed the Planner's memorandum of August 11, 2014. With respect to item 7, the bleachers will be aluminum with a brick face panel at the ground. With respect to item 10, there may be brick columns on the ornamental fence, depending on fundraising. If not enough money is raised, then brick columns will be constructed only at the corners of the fence. With respect to item 12, Applicant is proposing only LED security lighting.

20. Mr. Walsh responded to some questions from Board members. He indicated that when necessary, Applicant has permitted parking on the tennis and basketball courts. He also indicated that the school hosts a lacrosse tournament once a year in the summer. In the past, there were parking problems, but in the past two years these have been resolved and in cooperation with the police department, parking during these tournaments has not been a problem.

21. The hearing was opened to the public for questions. A. Paul Stofa of 168 Plainfield Avenue asked if Metuchen residents will be allowed to use the turf field. Mr. Walsh indicated that Metuchen residents can still use the track, not the field. He indicated that there will

be no lights on the field and no night games. There could be community events. Mr. Walsh was asked if the sound system could be constructed at the back of the property. Mr. Walsh responded, “No”, people in the bleachers would not be able to hear.

22. Len Roseman of 40 Miller Drive asked a number of questions. In response, Mr. Walsh stated that he felt that parking was adequate, that police protection is provided at football games, that St. Joseph will not rent the facility being constructed to outside groups, and that there would be no night football games. He indicated that there had been two to three night soccer games with temporary lights, but they have not had any night games recently. Mr. Roseman asked about the growth of football. Mr. Walsh did not know if the football program will grow. He indicated that the school will work with Metuchen police for events and that St. Joe’s has been asked in the past by the NJSIAA to allow two other teams, other than St. Joe’s, to play.

23. Karen Blanchard of 69 Willow Road asked whether the gate will be locked. Mr. Walsh indicated that the main gate will be locked. The other gate will be opened. In response to questions, Mr. Walsh stated that if the bleachers are at capacity, there may be some people standing for games. They will not rent out the turf field, although the fields of the back of the school may be rented. Mr. Walsh was asked whether the pine trees on Plainfield Avenue will be replaced. He indicated that St. Joseph is planting more shrubs between the track and the road and that they plan to buffer the parking lot.

24. Donald Alena of 5 Paddock Court in Edison asked about parking. Mr. Walsh believes parking is adequate. He says that an event that Mr. Alena referred to is the lacrosse tournament, which draws about 4,000 people. That is not affected by this application. Mr. Walsh says that he has been working with the police on the summer event, which is a different kind of

event that will occur on the turf field and on the track. Mr. Walsh stated that in the last three to four years, attendance at that event has been lower.

25. Richard Mackiewicz of 140 Plainfield Avenue asked Mr. Walsh what subjects he taught. Mr. Walsh taught English, History and Religion. Mr. Mackiewicz pointed out that Mr. Walsh is not a parking expert. Mr. Mackiewicz pointed out that the school did not participate in football prior to about six years ago. Mr. Mackiewicz suggested that of the 60 acres of land or so at St. Joe's, that the proposed facility can be located elsewhere. Mr. Walsh stated that there is a large sewer easement area which restricts use of the property. Mr. Walsh is aware the Bishop Ahr's field is grass. Mr. Walsh admitted that he is not an expert in field safety. In response to a question, he stated that the new scoreboard will be approximately 432 square feet. Mr. Mackiewicz showed Mr. Walsh the sign which was marked number 21 on Exhibit A-1. In response to a question, Mr. Walsh stated that there were two signs. Mr. Mackiewicz also showed sign number 19 in Exhibit A-1. Mr. Walsh indicated that St. Joseph received a permit for that sign.

26. Susan Marshall of 156 Plainfield Avenue asked how many days of the week the field will be used. Mr. Walsh indicated that track practice is daily in the winter and spring. There will be about five home varsity games. Freshmen and junior varsity have about four home games. She asked whether any environmental impact study had been done. The question was answered in the negative. She asked about the pipeline, and the question was deferred to the Applicant's engineer.

27. Brent Papi, Jr., was sworn in, qualified and gave testimony. He is a licensed civil engineer. He is familiar with the application and prepared the site plan. He evaluated the existing conditions and consulted with the school.

28. Mr. Papi indicated that the site of the improvements is on the west side of Plainfield Avenue. The school is a parochial school. He described the existing buildings and other features of the property. He indicated that there were 386 existing parking spaces. He introduced Exhibit A-2, a rendering of the project area, which is 5.5 acres. There are large evergreen trees bordering Plainfield Avenue. Drainage runs to a ditch at the southerly border of the property. He described the easements on Exhibit A-2. He indicated that there will be an asphalt and a rubber running track and a turf field is proposed. He indicated that the closest portion of the track is set back approximately 99 feet from the property line on the south. With respect to the field seating, the home side will have thirteen rows of seating, approximately 999 seats. The visitor side will have ten rows. A press box with speakers facing away from Plainfield Avenue toward the building is proposed. Also proposed is a building for the concession area, bathrooms and tickets, with several LED light fixtures for security.

29. Mr. Papi described the landscaping shown on the plan. Applicant proposes a 6 foot high estate style ornamental fence outlining the facility, roughly where the existing fence is located. On the railroad side, they proposed to replace the existing fence with new vinyl coated chain-link fence. The other sides of the fencing will be decorative; one parking space will be lost. A total of 384 spaces are proposed. With overflow parking at the middle school, they could accommodate up to 500 cars. There are 17 ADA handicapped spaces proposed.

30. Mr. Papi indicated that the proposed development is a “major development” for the purposes of storm water management. Drainage chambers are proposed. Storm water discharge will tie into existing storm pipes that drain the grass field. The proposed facility will meet peak flow rates to comply with the state Stormwater Regulations. Mr. Papi indicated that the Applicant will comply with all of the recommendation and requirements contained in the

acting Board Engineer's Memorandum of August 11, 2014. Applicant will address all of the acting Board Engineer's issues.

31. Mr. Papi testified that the distance from the new scoreboard to Plainfield Avenue is about 660 feet. The existing scoreboard is about 360 feet from the property line.

32. The portion of the track which is located in the front yard of the school, that is, in front of the most easterly building, would be an approximately 46-47 feet encroachment into the front yard setback area. Only a small portion of the track will encroach. The existing track is partly in the front yard. Mr. Papi indicated that there would be a decrease in open space of approximately 5.4%.

33. Mr. Papi reviewed the bulk variances and waivers as shown on the plans and explained the reasons for the submission waivers. He indicated that the environmental analysis map, the urban/architectural design elements inventory and the storm sewer profiles were not necessary.

34. Mr. Papi next reviewed the variances requested as listed on the plans. He described the chain link vinyl coated fence around the track. He indicated that the bleachers would exceed the ordinance height limitations and explained that the bleachers at Metuchen High School are actually higher than proposed here. With respect to parking, he indicated that Metuchen High School has about 200 parking spaces, as compared to the proposed 386 at St. Joseph. He stated that the proposed scoreboard is similar in size at Metuchen High School.

35. Mr. Papi offered the opinion that inasmuch as there was no change in use or intensification of the use, only an upgrade of the facilities, there was no need for additional parking.

36. Mr. Papi introduced Exhibit A-3, a series of photographs depicting the property. He took all of the photographs except for the first one, an aerial photograph. The photographs showed the existing facilities, the screening, Plainfield Avenue and the view of the area proposed for the facilities shown from various locations. Mr. Papi also took some photographs at Metuchen High School, showing what he described as an active recreation area in the front yard. Mr. Papi reiterated that it was his opinion that no additional parking is required on the site.

37. In response to questions from Board members, Mr. Papi indicated that there were currently six lanes at the track and that eight are proposed. The reason for the additional lanes was that the track can provide more practice time and when meets are conducted they can take place faster. Mr. Papi reiterated that the Applicant will address and comply with the acting Board Engineer's technical comments. He indicated that a storm water management report in accordance with Storm Water Regulations has been submitted to the Board's acting Engineer. The proposal meets all storm water requirements.

38. In response to a question from the Board, Mr. Papi indicated that on-street parking was not counted in the parking calculation and that the portable bleachers on the site are not included in the count for seating at the turf field. In response to a question about parking management, Mr. Walsh indicated that the Father's Club manages the parking and that all of the members managing the games have walkie talkies.

39. The hearing was opened to the public for questions of Mr. Papi. Mr. Stofa asked about the possible relocation of the speakers. Mr. Papi indicated that the proposed location was the better location. Susan Marshall asked why no traffic study had been performed. Mr. Papi indicated that there was no intensification of use. Mr. Mackiewicz asked about whether there was an intensification of use dating back prior to the time when football started. Mr. Papi indicated

that he did not know what happened before there was football at St. Joseph. Ms. Marshall asked why sidewalks are shown on Plainfield Avenue. Mr. Papi indicated that the County is requiring sidewalks. Ms. Blanchard asked about construction considerations regarding the pipeline. Mr. Papi indicated that there would be “lots of coordination” with utilities. Mr. Mackiewicz asked if the field could go behind the school, and Mr. Papi indicated that there would be difficulty in locating it there.

40. At this point, due to the lateness of the hour, the hearing was carried to September 11, 2014.

41. The hearing resumed on September 11, 2014.

42. Lester J. Nebenzahl was sworn in, qualified and gave testimony. He is a professional planner. He stated that he reviewed the application and drawings. He visited the site. He also visited Metuchen High School. He indicated that the property is located in a R-1 district. He stated that the use as a high school is an inherently beneficial use and is a permitted conditional use in the zone. He stated that the only reason why the proposed facility did not comply with all of the conditional use conditions for a high school was that a part of the active recreation area is located in part of the front yard.

43. The closest portion of the facility, according to Mr. Nebenzahl will be 99.2 feet from the property line. Accordingly, the front setback is 99.2 feet, where only 25 feet is required. The reason why the variance is necessary is that the buildings are set back much farther from the property line than they are required to be setback. If the buildings were located 25 feet from the property line then no variance would be required.

44. Mr. Nebenzahl testified that there is a very large front yard. 93% of the front yard is not a proposed active recreation area. Only 7% of the front yard will be covered by the track.

45. Mr. Nebenzahl cited the Coventry Square case for the criteria for a D(3) variance. He indicated that the Applicant is required to show that the site as proposed continues to be an appropriate site for the conditional use, notwithstanding the deviation. He offered the opinion that there were no detrimental effect because of the existing trees and buffer and because of the landscaping to be added. Mr. Nebenzahl stated that the street right of way is 66 feet wide and that the nearest houses to the proposed recreation facility are a considerable distance away. He indicated that the rest of the variances can and should be granted under the C2 criteria because the benefit of granting the variances outweighs any detriment. He cited purposes a, f, g, i and m of zoning, as set forth in N.J.S.A. 40:55D-2 as reasons why the beneficial effects of the facility would outweigh detriment. Mr. Nebenzahl stated that the proposal constituted an appropriate use or development of the land in question, that it would provide space in an appropriate location for public recreational and open space use, that replacement of the deteriorated facilities with new, modern facilities would promote a desirable visual environment and that the proposal would encourage coordination of public and private procedures shaping land development with a view lessening the cost of such development and to the more efficient use of land.

46. Mr. Nebenzahl stated that there would be no substantial detriment arising from the proposed improvements as the activities are already existing. Additionally, the structures proposed are so far from the property lines that they will not affect any residents.

47. Mr. Nebenzahl testified that the proposed facilities would not increase parking demand and that there was no change in use or intensification of use proposed.

48. With respect to signs, Mr. Nebenzahl testified that in his opinion, a scoreboard is not a sign, subject to the sign restrictions. He indicated that it is a different use. He indicated that the other sign proposed would replace a sign which had been destroyed by a snow plow. He

indicated that there was frontage of almost 1,300 feet along Plainfield Avenue and he did not think that two signs were too many.

49. In response to a Board member regarding landscaping, the question was referred to the site Engineer.

50. The hearing was opened to the public for questions of Mr. Nebenzahl. Mr. Roseman asked whether athletic activity could not be considered a detriment. Mr. Nebenzahl did not believe that athletic activity would be considered a detriment. Mr. Roseman asked whether a traveling circus or a Ferris wheel might use the facility and it was suggested that the use of the facility be limited to high school athletics.

51. Richard Mackiewicz pointed out that the witness did not testify about traffic. In response to a question, Mr. Nebenzahl stated that the facility was 94.2 feet to the street line. He indicated that there were presently two other signs on the site, but there are stanchions with no signs on them. Mr. Mackiewicz suggested the scoreboard would have an impact. He asked whether the witness was aware that the school had other athletic events beside school events on the site.

52. Ms. Marshall asked whether the facility was a stadium. She was told it was not. She indicated that she thought there might be more activity in the future. She asked Mr. Nebenzahl whether he walked the neighborhood of Plainfield Avenue on both sides of the street. He indicated that he did. Ms. Marshall suggested that there could be multiple activities. Mr. Nebenzahl indicated that that could happen now.

53. A. Paul Stofa of 168 Plainfield Avenue asked about the Lamb v. Ventnor case which was mentioned by Mr. Nebenzahl as supporting the proposition that a grandstand is an integral part of a high school. He asked whether there were any more recent cases and was told

that there were not. He asked about the black vinyl fence and was told that one could see through it.

54. Ms. Marshall questioned the statement that there was no environmental impact. Mr. Nebenzahl stated that it makes sense to locate the facility where the existing facility is located. Mr. Mackiewicz asked if that use can be accomplished without a scoreboard.

55. Mr. Papi was recalled as a witness. In response to a question about landscaping, he indicated that the Applicant proposes to fill in gaps in the buffer of the facility from view of Willow Drive. He referred to the landscaping plan shown on sheet 7 of the site plan. He indicated that there will be a 4 foot high chain link vinyl coated fence around the track. He stated that the track encroaches about 48 feet into the front yard. The track and the rest of the facility cannot be shifted back 48 feet because there is an existing building. The proposed facility encroaches only 14 feet more into the front yard than the existing facility.

56. The hearing was opened to the public for additional questions of Mr. Papi. Mr. Mackiewicz suggested that the eight lanes be reduced to six. Ms. Marshall asked what an estate style fence would be. It was explained to her. Mr. Papi stated that the track will still be opened to the public.

57. The hearing was opened to the public for public comments. Lisa Dacey of 53 Wadsworth Avenue was sworn in and commented. She stated that she lives near the high school. St. Joseph has much more parking than Metuchen High School. She feels parking is adequate.

58. Steven Epstein of 310 East Chestnut Avenue was sworn in and commented. He stated that no lights were proposed. All the school is seeking to do is to replace an existing facility with a better and safer facility. The existing facility has been there for fifty years. He has

one son who plays sports at St. Joseph. Football and athletic programs attract students to the school. He indicated that there are only five home football games per year.

59. Dominick Bratti of 12 Aberdeen Road, Scotch Plains, was sworn in and commented. He is a St. Joseph graduate. He came to the hearing to support the school. He stated that he is in favor. His opinion was that the variances sought are minimal.

60. Len Roseman was sworn in and commented. He stated that he wishes to protect the tranquility of the neighborhood.

61. A. Paul Stofa was sworn in and commented. He indicated that for the most part, St. Joseph is a good neighbor. He is an attorney. He was disappointed that the first hearing started with comments on the R.L.U.I.P.A. He indicated that he did not think that the application warranted 1,500 seats worth of bleachers. He opposes the application.

62. Richard Mackiewicz was sworn in and commented. He indicated that St. Joseph did not consult the neighbors. They could have a traffic problem. He says that some traffic problems exist now for basketball games. He objects to the height of the stands. He does not think that the proofs are legally sufficient. He indicated that there is no proof that the parking was adequate.

63. Susan Marshall was sworn in and commented. She has lived in the area for thirty years. She grew up in Cranford. St. Joseph is a good neighbor. She feels that intensification of the athletic use has taken place. She feels that people will come and park on Metuchen's streets.

64. Lou Garlatti Jr. of 5 Llewellyn Place in New Brunswick was sworn in and commented. He is a graduate of St. Joseph and his son is a graduate of St. Joseph. He serves on the Board of Governors of St. Joseph. He is in favor of the application.

65. Mr. Sharlow gave a summation. He indicated that St. Joseph has worked with the police department to manage parking where this is an unusual parking demand. He indicated that the only permitted conditional use which is not met is the “no active recreation in the front yard” requirement. He stated that the reason that variance is required is because the school sits back very far on the property. He requested that the Board grant the required D(3) variance and the other minor variances and waivers/exceptions.

66. The acting Board Engineer, Ms. Hering, indicated that she has received the Mellick-Tully study regarding the footings. She is satisfied with the Mellick-Tully report.

67. Mr. Sharlow indicated that everything in the Planner’s memorandum had been addressed. He also stated with respect tot the issue of the columns, that brick columns will be installed if there is sufficient funds, if not, there will be black metal columns.

68. The hearing having been completed the Board proceeded to discuss the application.

WHEREAS, the Metuchen Board of Adjustment, after hearing the testimony in support of the application, and the questions and comments of the public, both for and against the application, and after considering the recommendations of the acting 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 2, Lot 1 shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 145 Plainfield Avenue.

3. The property is located in the R-1 Residence District. Applicant's proposed use is a permitted conditional use in the R-1 Zone.

4. The property is situated in the R-1 Residence District, and consists of 60.98 acres of land, on which various school and religious buildings are situated together with recreational facilities. The property is used as a parochial high school operated by the Brothers of the Sacred Heart.

5. Applicant proposes to replace the athletic field and track and associated facilities located on the property with a new turf field and track to construct bleachers and a building for bathrooms, a concession area and a ticket booth and replace a sign at the entrance of the school that was damaged during a snow storm, all as testified to during the hearing and as set forth in Applicant's application.

6. The existing high school is a permitted conditional use in the R-1 Zone. The Board finds that it and the associated recreational facilities are an inherently beneficial use.

7. The proposed expansion of the active recreation area does not conform to one section of the applicable conditions for this permitted conditional use in that §110-87A(7) does not permit an active recreation area within the front yard. The front yard is defined in the land development ordinance (LDO) to mean the area between the buildings and the street. Because the buildings at St. Joseph High School are set back so far from the street, the proposed active recreation area which is set back 99.2 feet from the front property line is technically defined as being in the front yard, because the buildings are set back 147.90 feet from the property line. If the buildings were set back 25 feet from the property line or anywhere up to 99.2 feet from the property line, no D(3) variance would be required.

8. The Board finds that the C variances requested are minor and may be granted under the C-2 criteria. For the most part, these variances are required because although a high school is a permitted conditional use in the zone, most of the provisions of the LDO from which C variances are sought do not contemplate a use like that of the Applicant.

9. With respect to the Coventry Square analysis, the Board finds that notwithstanding the deviation from the LDO with respect to the facilities location in the front yard, the use as a high school with associated athletic facilities continues to be an appropriate use in the zone.

10. The Board finds that the D(3) variance relating to the active recreation area in the front yard may be granted because Applicant has demonstrated special reasons for the granting of same consistent with the testimony of Mr. Nebenzahl, that is, that the granting of the D(3) variance will advance several of the purposes of the Land Use Law including purposes a, g, i and m. The Board also finds that the use of St. Joseph as a high school is an inherently beneficial use and that the site continues to be an appropriate location for a high school, notwithstanding the deviation which brings the Applicant before the Board of Adjustment, that is, location of a portion of the active recreation area in the front yard.

11. The Board further finds that the C variances relating to the type of fencing, the height of the fencing and the height of the accessory structures may be granted under the C-2 criteria because the benefit of granting the variances outweighs any detriment. The benefits again relate to the purposes of zoning and the enhanced safety and utility of the improved facilities. Moreover, the Board finds that no detriment will result from the granting of these variances because the facilities which are presently located in the same area are merely being replaced with upgraded facilities

12. With respect to the waivers pertaining to signs, the Board finds that the waivers may be granted because the literal enforcement of the requirements relating to signs would be impractical and would exact undue hardship because of the peculiar conditions pertaining to the land in question. In this case, restricting a property of this size to two signs is impractical. Additionally, the Board does not regard the scoreboard as a sign. It is an accessory structure, but not a sign. With respect to the size and number of the signs requested, again, because of the size of the property in question, the size of the signs may be increased because they will have less of an effect on other properties and because multiple signs are necessary on a facility this size.

13. The Board further finds that its determination that parking is adequate is based upon the proposed seating capacity as proposed, that is, bleachers accommodating 1,500 spectators.

14. The Board further finds that no parking waiver or variance is required because the parking meets the standards of the LDO. The Board accepts the recommendations of its professionals and the testimony of the Applicant's professionals in this regard.

15. The Board further finds that the waivers of submission requirements can be granted because the submissions sought to be waived are not required for the Board's consideration of this application.

16. The Board further finds that the application for preliminary and final site plan approval with D variance, C variances, waivers/exceptions and waivers of submission requirements 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 constructs this project 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 St. Joseph High School for D variance, C variances, waivers/exceptions, waivers of submission requirements and 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 comply with all of the following conditions:

1. Applicant shall comply in all respects with the recommendations and requirements contained in the acting Board Engineer's memorandum dated August 11, 2014. Where the acting Board Engineer's comments require revisions to the plans, such revisions shall be made subject to the acting Board Engineer's approval.

2. All landscaping shall be subject to the review and approval of the Board Planner. If the Board Planner requests additional landscaping or revisions to the plans, Applicant shall submit such revised plans, which shall be subject to review and approval of the Board Planner.

Applicant shall add shrubs to screen the exposed edge of the parking stall located closest to Plainfield Avenue.

3. Applicant shall shield the loud speakers if possible; whether or not shielding is possible shall be subject to the review and determination of the Board Engineer.

4. No lighting of the facilities shall be permitted so as to allow night activity.

5. Applicant shall continue to work with the Borough Police Department with respect to traffic and parking when activities and conditions warrant same.

D. Applicant shall prepare and submit revised plans, reflecting the conditions of this approval, to the Board Engineer and the Board Planner within sixty (60) days of the date of this resolution.

E. 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.

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

G. 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.

H. The Applicant shall furnish a performance guaranty, if necessary, in favor of the

Borough of Metuchen in an amount equal to 120% of the cost of the site improvements approved by this resolution as estimated by the Board Engineer in a form satisfactory to the Borough Attorney.

I. The Applicant shall also post an inspection fee equal to 5% of any public improvements or changes to public improvements.

J. 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.

K. 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 September 11, 2014 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.



Sharon Hollis, Secretary

Dated: October 9, 2014