

RESOLUTION OF MEMORIALIZATION

BOARD OF ADJUSTMENT OF THE TOWNSHIP OF CRANFORD

APPLICATION NO. ZBA-18-003

APPLICANT:

Emanuel Nimrud
12 Hickory Street
Cranford, New Jersey 07016

Property Site:
496 Centennial Avenue
Block 594, Lot 8

WHEREAS, Emanuel Nimrud (hereinafter the "Applicant") owns property located at 496 Centennial Avenue, Block 594, Lot 8, Cranford, New Jersey; and

WHEREAS, the Applicant's property lies in the neighborhood commercial zone district (NC); and

WHEREAS, the Applicant was represented by Gary Goodman, Esq.; and

WHEREAS, the Applicant's planner, Robert Hudak; the Applicant's engineer, Edwin Rieman; the Applicant's architect, Manuel Pereiras, testified; and

WHEREAS, members of the public spoke in favor of and in opposition to this Application; and

WHEREAS, the Applicant seeks a d(3) conditional use variance where residential units are permitted but exceed the maximum density allowance of 3.646 units as 4 units are proposed; and

WHEREAS, the Applicant seeks a d(5) variance to exceed the maximum allowable density for the same reason that a d(3) variance is sought; and

WHEREAS, the Applicant seeks a c(1) variance because a 15 foot front yard setback is required and a 12 foot front yard setback is proposed; and

WHEREAS, the Applicant seeks a c(1) variance for a minimum side yard setback because 12 feet is required whereas the proposal by Applicant seeks 15 feet on one side with a 3 foot setback on the other side for a combined setback of 18 feet; and

WHEREAS, the Applicant seeks a c(1) variance because parking must be setback a minimum of 25 feet from a residential zone and the proposal seeks parking within 5 feet 8 inches to the residential zone; and

WHEREAS, the Applicant seeks a c(1) variance because a loading zone is required and one is not sought in the proposal; and

WHEREAS, the Applicant seeks a c(1) variance because the minimum lot area in this zone is 15,000 square feet where the existing condition of the lot is that it is 7,960 square feet; and

WHEREAS, the Applicant seeks a c(1) variance because the lot width required in the zone is 100 feet whereas 60 feet is an existing condition; and

WHEREAS, the Board heard this Application on April 9, 2018; and

WHEREAS, the Board has made the following findings of fact and conclusions of law.

PRELIMINARY CONCLUSION OF LAW

1. The Board found by unanimous vote that this Application was not barred by the doctrine of *res judicata* because there has been a substantial change in the Application, namely that the Ordinance previously prohibited residential uses in this zone when a prior application was made and now the NC district expressly permits residential uses.

FINDINGS OF FACT

1. Applicant's lot is irregularly shaped and located on the southwesterly corner of Cranford Terrace and Centennial Avenue.
2. Applicant's lot is .18 acres.
3. Applicant seeks to construct a two-story mixed use building consisting of approximately 875 square feet of retail space with a one-bedroom apartment on the first floor, one one-bedroom apartment on the second floor, and two two-bedroom apartments on the second floor. The building will occupy two floors only.
4. On-site parking for 11 spaces is proposed. A variance is not required.
5. The site will have an underground detention system to accommodate stormwater runoff.
6. The site previously housed Arnold's Pest Control and three residential apartments.

7. Applicant's planner Robert Hudak testified. He was involved with amending the Ordinance to permit residential uses in the NC zone and to have a non-residential use on the first floor. This Application will also include one commercial use on the first floor. Mr. Hudak noted the Ordinance did not disallow residential uses on the first floor.

8. Mr. Hudak testified the proposal would be a better use of the property. Presently the property is a vacant lot.

9. Mr. Hudak testified there will also be a buffer now between the existing residential zone and the proposed parking lot which does not currently exist.

10. Mr. Hudak testified that the Farmer's Insurance Company building has a zero front, side and rear yard setback along with one residence on the first floor.

11. Applicant's architect Manuel Pereiras testified that most of the adjoining lots in the area are nonconforming. He also testified that many of the lots' elevations are higher than this site.

12. Mr. Pereiras testified that the parking is compliant as three spots are required for the commercial use and eight for the residential use. Eleven spots are proposed by the Applicant.

13. The garbage contained will now be in a sealed area of the building and not in the rear yard adjacent to residential neighbors.

14. This is a two-story building without a mezzanine.

15. There will be four entrances to the building. The first entrance will be the Centennial Avenue front entrance to the commercial business. The second entrance will be the Cranford Terrace side entrance to the commercial business. The third entrance will be the Cranford Terrace direct entrance to the first floor apartment. The fourth entrance will be the rear parking lot entrance; it will provide access to the stairwell leading to the three second floor apartments and the basement.

16. Applicant's engineer Edwin Rieman testified that the parking will be in the rear of the building. The parking lot is three feet higher than Cranford Terrace. The parking lot will face Cranford Terrace. The building will include an ADA compliant residence.

17. The building will also be lower in elevation than the pre-existing Arnold's building that occupied the site years ago.

CONCLUSIONS OF LAW

1. Applicant's request for a d(3) variance to permit four residential units where 3.65 units are allowed is granted because the deviation is *de minimis* and the site will accommodate any minor problems associated with the use, even though the proposal does not comply with the conditions of the Ordinance. This variance can also be granted without a substantial detriment to the public good nor a substantial impairment of the intent and purpose of the Zone Plan and NC zone ordinance.

2. Applicant's request for a d(5) or density variance is granted because the density variation is *de minimis* and same can be granted without a substantial detriment to the public good nor a substantial impairment of the intent and purpose of the Master Plan and NC zone district.

3. The c(1) variances for front yard setback, side yard setback, parking, loading zone, lot area and lot width are granted because of the unique features of the property and the hardships in changing any pre-existing conditions. These variances may also be granted without a substantial detriment to the public good nor a substantial impairment of the intent and purpose of the Master Plan and NC zone district Ordinance.

NOW, THEREFORE, BE IT RESOLVED, on this 23rd day of April, 2018, that the request for relief is hereby **GRANTED**, upon the following conditions:

1. Applicant will add brick to both floors of the Cranford Terrace façade from the front of the building (Centennial Avenue wall) back to the point at which the first floor apartment ends and the building overhang above the covered parking area begins.

2. The Applicant will comply with the Township Engineer's report requirements contained in his April 5, 2018 letter to Zoning Officer Ronald Johnson.

3. Applicant will comply with Township's Stormwater Management Ordinance.

4. Applicant will provide two lighting poles of lesser height than the one 20 foot high light pole proposed. The maximum height of the poles shall not exceed 12'-0". There shall also be a reduced lumen output. A 3000K light source shall be provided.

5. Applicant is to reduce the proposed lighting levels for the parking area under the building overhang. The proposed levels are excessive.

6. As a matter of law, Applicant is subject to the Affordable Housing Development fee contained in Cranford Land Development Ordinance Section 255-6.

NOW, THEREFORE, BE IT RESOLVED that Application No. ZBA-18-003 is hereby granted on the conditions set forth above.

APPROVAL OF APPLICATION

David Salomon made a motion to approve the Application. This motion received a second from Robert Bovasso.

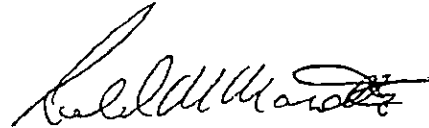
David Salomon, Robert Bovasso, Kevin Illing, Jeffrey Pistol, Mary Ann Hay and Ronald Marotta voted in favor of this Application. No member opposed this Application.

ROLL CALL VOTE

On May 14, 2018 the following members of the Cranford Zoning Board of Adjustment voted in favor of this Resolution of Memorialization: Mr. Bovasso, Mr. Illing, Mr. Pistol and Mr. Marotta.

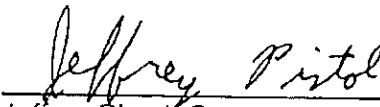
The foregoing is a Resolution duly adopted by the Board of Adjustment of the Township of Cranford at its meeting on May 14, 2018.

Dated: 5/14/18



Ronald Marotta, Chairperson

Dated: 5/14/18



Jeffrey Pistol, Secretary