

## **MINUTES – ZONING BOARD**

November 16, 2015

The workshop portion of the meeting was called to order at 8:06 P.M. by Mr. Marotta

### **RESOLUTIONS OF MEMORIALIZATION:**

1. None

### **COMMUNICATIONS:**

1. Letter from Joseph J. Triarsi, Esquire re: special meeting for Application #ZBA-15-026, 310 Centennial Avenue which was carried from November 9, 2015 meeting, as well as concerns with Trinity Church application.

Discussion between Board members best course of action is to wait until the new year when each application can be scheduled for their own evening, first available meeting in 2016.

### **MINUTES:**

Adoption of the minutes of September 21 2015 and November 9, 2015 were carried to next meeting.

### **OLD/NEW BUSINESS:**

The workshop portion of the meeting concluded at 8:07 P.M.

### **PUBLIC MEETING:**

A public meeting of the Cranford Board of Adjustment was called to order by Mr. Marotta on November 16, 2015 at 8:15 P.M. in Room 107 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Mr. Bovasso announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader or Star Ledger has been notified and the agenda posted in the municipal building as required.

### **ROLL CALL:**

#### **Members Present:**

Mr Marotta  
Mr. Bovasso  
Ms. Hay  
Mr. Pistol  
Mr. Higgins  
Mr. Illing

Mr. Mallon

**Members Absent:**

None

**Alternates Present:**

Mr. Salomon

**Alternates Absent:**

None

**Also present:** David Weeks, Esquire, Ruthanne Della Serra, Administrator and Robert Hudak, Zoning Officer/Planner.

Mr. Marotta explained the protocol, purpose and procedure that will be followed during the hearing.

**Application #ZBA-15-024:**

**Nicholas Noce, Applicant**

**5 Cherokee Road, Block 620, Lot 7, R-4 Zone**

**To permit construction of a fence that will exceed the maximum allowable height and openness (§136-23.11(2)).**

Nicholas Noce, Applicant, appeared and was sworn in. He explained they are seeking construct a fence that will be six-foot high solid fence in rear of property, on a corner lot, to gain privacy and security for children and use of the rear yard. Six feet is needed mainly for privacy as on a corner property with quite a lot of vehicle traffic.

Questions posed by the Board ascertained the following:

Fence will be of PVC, six-foot solid with top portion lattice, about 18 inches. Picture is contained in the application. In total not 6 foot solid. Fence will be about 5 feet from Iroquois Road in grassy area and intention is not to install landscaping in front of the fence, if conditioned would agree to install. Explained possible use of Arbor Vitae, something that would grow to at least the height of the fence to break up the solid wall effect. Applicant confirmed landscaping should be spaced out. Applicant proposes to install the fence in same location as existing fence.

There were no further questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with no one appearing and this portion of the hearing was closed with the matter referred back to the Board.

Mr. Marotta opened the application to the public for comments with no one appearing and this portion of the hearing was closed with the matter referred back to the Board.

**DELIBERATION of APPLICATION #ZBA-15-024**

**Application #ZBA-15-024:  
Nicholas Noce, Applicant  
5 Cherokee Road, Block 620, Lot 7, R-4 Zone  
To permit construction of a fence that will exceed the maximum allowable height and openness (§136-23.11(2)).**

Mr. Marotta reviewed the testimony.

Board comments consisted of the following:

No problems with the fence and understand reason for requesting, obviously fence should be softened on the outside for neighbor benefit, minimum of 5 Arbor Vitae or Hemlock shrubs would be appropriate.

Motion to approve Application # ZBA-15-024 was made by Mr. Higgins with the condition that landscaping be installed to prevent appearance of solid wall with minimum of 5 evergreen type shrubs. The motion was seconded by Mr. Bovasso with the following voting in favor of the motion: Mr. Marotta, Mr. Bovasso, Ms. Hay, Mr. Pistol, Mr. Higgins, Mr. Illing and Mr. Mallon.

**Application #ZBA-15-027:  
Emanuel Nimrud, Applicant  
469 Centennial Avenue, Block 594, Lot 8, N-C Zone  
To permit construction of a new mixed use building with the following variances: mixed use structures not permitted in the N-C zone (§136-32C(1)); less than the minimum required area for a parking space (§136-23.6(3)[a][1]); granite block curb not provided (§136-23.6(8)[g]); no loading or unloading zone provided (§136-23.6(12)); less than the minimum required side yard setback (§136-30, Attachment 1, Schedule 1); to permit parking located adjacent to a residential zone (§136-23.6(3)(a)); and to exceed maximum allowable impervious surface/lot coverage (§136-30, Attachment 1, Schedule 1).**

John DeMassi, Esquire, appeared on behalf of the applicant. He presented an overview of the application. He advised the application is amended to include relief for impervious surface/lot coverage where 75% is permitted and proposed is 88%, due to pervious ordinance allowing 90% that has been amended. Has 4 witnesses tonight, the applicant, architect, engineer and planner.

He explained res judicata, the applicant went before the Planning Board in 2014, at which time the Planning Board had jurisdiction. Township Ordinance has since been amended and is reason this application is before this Board. Original application was for 6 residential units with commercial unit, application was amended to 4 units, with regarded parking now 11 spaces which is being provided all on site. There is a waiver, however, for parking space to be 18 X 10 and proposing some at that size and several at 9X18 resulting in waiver request. Granite block is being provided on Cranford Avenue side and rear of the property. Section of existing wall does not make sense to place the block there. Technically a waiver for that section.

Mr. Weeks advised current application is substantially different than previous one heard before the Planning Board with res judicata not applicable.

Emanuel Nimrud, applicant appeared and was sworn in. He is the owner of the property that is presently a vacant lot, formerly Arnold Pest Control that burned and was mixed use residential and commercial. Proposing 4 residential units with commercial space in front (approximately 950 square feet) with apartment behind and 3 units above. One unit on the first floor is for his father who is 75 and cannot maneuver steps any longer. Commercial on the first floor will be his showroom strictly. No materials (inventory) will be stored there. There will be a mezzanine area for shelving to house samples and will be 6' 10" and cannot be used for an office. Previously applied before the Planning Board for 6 units and business was double the size, has shrunk the entire project and eliminated one floor. One waiver is for loading/unloading area, which is not needed as will only be processing paperwork, any orders will be delivered to the customer from the manufacturer.

Questions posed by the Board ascertained the following:

Hours of operation 9:00 - 9:30 AM to 5:00 or 6:00 PM, normal business Monday thru Friday, not certain about Saturday, and does not anticipate evening hours past 7:00 PM. Expects customers by appointment. may have some walk ins, but would then have to make an appointment. Possibly 5-6-8 customers per day. Walk-ins would be for very short time. Not distributing materials, more of a design service. Residential units will be 2 two-bedrooms and 1 one-bedroom. Anticipates having assigned parking for residents and business. Employees will be 2 or 3 maximum including himself and would be coming in and then going out to appointments. Will have 3 spot minimum for employees, if necessary customer can park on Centennial Avenue. Samples will be 4X4 inches or 6 X 6 inches. Has similar business in Clifton on a smaller site and testimony is based on his experience. All lighting will be turned off when the business is closed.

There were no further questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with the following appearing:

Patrick Daly – mentioned earlier testimony that prior building housed 3 residential units, based on building department there were 2 legal and one illegal residential units. Based on information that was provided by Building Department and confirmed with the seller. Parking in the back – counsel objected not testified to. Business will be a design center, walk-ins will be in and out quickly others will be by appointment only. Creation of mezzanine level is to decide what samples customer would like, to take home, small piece not full sized and is not accessible by the public. Can have multiple samples on site, small area, 900 square feet with actual kitchen displays for customer viewing. Appointments will take longer and will park in the lot where allocated parking, shared spaces with anyone parking on both sides of Centennial Avenue. There will be spots allocated for the customers.

Christine Daly – Confirmed parking plan is requesting a waiver.

John Salerno – Questioned clarification - what if manner business is conducted or the business itself changes? Mr. Hudak explained if business use does not change, proposal would have to be reviewed for details and may or may not have to come back before the Board. Mr. Weeks advised commercial use is permitted, proposal is an allowed use, applicant is not here for that aspect, is here for the residential use on the first floor.

No one else appeared and this portion of the hearing was closed with the matter referred back to the Board.

Manuel Pereiras, Pereiras architects, appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert in the field of architecture.

Mr. Pereiras reviewed the architectural elements of the application that he designed. Rendering of proposed structure prepared and marked as Exhibit A-1. Site Plan marked as Exhibit A-2.

The rendering is a computer generated artistic rendering prepared to reflect what the site will look like when developed. Is a two story structure with one mezzanine. Façade is brick and plaster. Took elements of both residential and commercial as mixed use i.e asphalt shingle roof, gable elements, height of store front and opening on Centennial Avenue. Elements showing when one steps into the property and then out, as well as horizontally which gives the building balance with the neighborhood.

Lot of triggers two pre-existing non-conforming conditions - less than required area and less than lot width resulting in an undersized lot. New zoning change requires 15,000 square feet in area.

Sufficient onsite parking is provided in accordance with the ordinance. Complies with front yard setback on both street fronts. Centennial is low which sets the building higher, parking lot is off Cranford Terrace with existing curb cut and is appropriate as is the furthest point from the intersection. Parking on both sides of the curb cut, more than 24-foot aisle width, 11 spaces provide, 4 are under the carport, handicapped on left and is fully compliant. On right hand side is an additional 6 spaces of 9X18 size, and are not compliant with ordinance requirements, but comply with every other standard, typical for residential structure, and is seeking a minor waiver. Fully compliant with parking and important to note applicant is providing all required spaces on site. Majority of space for showroom is for mock ups and explained in detail. The showroom was specifically designed for this application; mezzanine is non-habitable. Is undersized lot, when complying with parking which restricts the size of the spaces, together with the 25-foot setback for parking from residential zone requirement, results in no location on the site to meet that, no other alternative, resulting in a waiver. Side yard setback proposed is 3 feet where 12 feet is required for a total of 24 feet and providing 18 feet. Existing retaining wall along the back and no reason to provide block curbing in that section.

Third page of Exhibit A-2 – depicts handicapped accessible apartment which is on first floor right off the parking lot. One bedroom of 730 square feet, enter into large open space 12 X 21 feet on right is open kitchen, handicapped accessible bathroom and bedroom.

Trash enclosure - individual receptacles for garbage and recycling, 6 X 18.6 surrounded by 6-foot privacy fence. Applicant conferred with the hauler and organized the proposal at his recommendations.

First floor plan overviewed in detail - consists of handicapped accessible apartment and commercial space (943 square feet) with mezzanine portion accessed through stairs in rear of 709 square feet of shelving over the first floor apartment. Not unusual to have commercial area over a residential unit, discussion regarding sound barrier. Code standards apply and must be a minimum count of 30 and is addressed by series of methods. Commercial cannot bleed more than 30 decibels as required under State building codes. Disabled employee would not be able to access the mezzanine level under ADA is not required, and if not, Building Department will make the applicant add a lift, as must comply with ADA.

Mr. Marotta confirmed with Mr. Weeks that hearing is to address the application submitted and not for any alternative future use. Discussion held with Mr. Hudak reiterating that depending on what future use was proposed, if office or some other use that would be of greater intensity, would have to return to the Board for approval. If different use that would generate higher parking requirement, would have to return to the Board with a determination made by Zoning Officer regardless. Mr. Pereiras advised building was specifically designed for the applicant.

Paver walk and bicycle rack provided.

Second floor components reviewed - hallway with 3 doors to apartments of 1,150 square feet, 1,157 square feet and 700 square feet. Walks into open floor plan, dining living and kitchen, private section thru hallway for utilities and then two bedrooms, one master bedroom and other secondary bedroom.

Lighting plan reviewed - minor lighting to comply with code, underneath overhang area, proposing one light on building facing parking area and one pole light under 16 feet in other corner of lot with shield. Will have wall sconces to illuminate the path. Will include true landscaped area.

Questions posed by the Board ascertained the following:

7 individual receptacles versus small dumpster – advised basically per hauler contract. Mailboxes will be accessed by lock box. Full construction documents will need to be submitted for permit process. Mezzanine will be open for security purposes. There is minor site grading to deal with run off, nothing will be visually different. Steps from walk to front door area explained in depth. Adjacent building next to property is about 10 feet between from building to building. Block is proposed in rear of the parking lot. There is an existing fence that does not belong to the applicant. Existing parking lot is different than proposed as it is closer and previously was approximately 3 feet with proposed on the line, could shift slightly and lessen the aisle width. Although it appears the fence on rear of property is on the applicant's property, it is not his fence. Mr. DeMassi advised if the Board requires a fence, applicant would construct, but would have to remove the existing fence and relocate or replace it on the property line.

With regard to the lighting adjacent to the residential area - it appears the candles proposed is quite high, assumes operation from dusk to dawn, and will be happy to reduce from 3 foot candles to 2, and can be reduce to single or smaller fixture. 16-foot high pole is also quite high for the neighborhood area - applicant would be happy to remove the pole completely, as lighting will come off the building but that light would not cover one corner. Finishes discussed. Air conditioning units - will have utility closets for each unit with split system. Condensers will be located outside on the roof shielded by a parapet. Roof hatch will be on the fire stairwell. Drainage will be by roof drains then to proposed system which will be explained by engineer.

No further questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with the following appearing:

Christine Daly – Parking area confirmed with 11 spaces required and 11 provided with waiver requested for distance to residential. If ordinance requirement were met, would

not be able to provide any spaces. Unaware of the 2 vehicles that park at the lot currently. Confirmed if existing proposal included the setback 25 feet, would not be able to meet the parking requirements. Cannot provide the setback with building as presented today.

Andzejus Ruskulis – Confirmed the size of commercial space – the showroom portion is 943 square feet on first floor with mezzanine 709 square feet. Calculation for parking is based on the showroom area only as mezzanine is not considered habitable space, is strictly storage and does not require any parking. Ordinance for commercial is one space for each 300 square feet – walked thru calculations as shown on first page of the site plan. Mr. Hudak to confirm.

Corner property with setbacks require 15 and 15. Is requesting relief as providing 3 feet and 18 feet. Property is located in a neighborhood commercial zone. Rounded down parking requirements as per ordinance. Confirmed requirements have changed since application was heard before the Planning Board. Mr. Hudak advised requirements are 1 space per 250 square foot of net area as adopted in 2014.

No one else appeared and this portion of the hearing was closed with the matter referred back to the Board.

Adnan Kahn, appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert in the field of civil engineering.

He designed the retention system for the applicant. Marked as Exhibit A-3, Drainage Plan prepared by Mr. Kahn. He presented an overview of the existing topography of the property, elevated between 3 to 5 feet in different areas, pattern of run off is from south towards Cranford Terrace and Centennial that is currently un-detained as no system presenting exists. Property to the east is also elevated in the back with a retaining wall that separates the two properties and pavement is approximately a foot higher than proposed. Walked the area and the properties to the rear are at a higher elevation. Everything flows down Cranford Terrace towards Centennial Avenue. Proposing storm water management system, even though project is not classified as large development, is proposes to contain run off both pre and post development. Roof drains will be directed toward the system and then to detention system. Run off in the paved area will be collected by means of a French drain then to the detention system. System is to contain additional run off by creating sufficient time to discharge the water slowly into the township system – report was provided to the Board and proposed system effectively reduces the run off and will be an enhancement as none presently exists.

Explained run off on applicant's site is being contained entirely through various means on site, in certain areas site is higher, however existing retaining wall creates separation as well as the curbing. Water will not flow up unless it can defy gravity.



Questions posed by the Board ascertained the following:

Confirmed contour of the curb on Centennial sidewalk is 73.85 and to where the building starts is 7 feet more feet. Number of steps shown on plan are correct.

There were no further questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with the following appearing:

Andzejus Ruskulis – Confirmed water from the roof will go to pipes then to the drainage system. Pipes will be maintained as shown in sheet #2 depicting specific maintenance requirements for entire system. Excess ports permit power washing of the pipes to clear. When water from roof is clean and parking lot together with garbage area, does proposal comply with NJDEP requirements? Site is not under NJDEP jurisdiction, rather municipal requirements.

Patrick Daly – Requested further explanation of details of system construction, water collection, amounts and for how long. System consists of 3,126 gallons storage based on 100 year storm. Outlet is proposed that will control how much water is discharged at any given time. Reduces 2, 10 and 100-year storm. Currently no detention system exists, explanation provided regarding how long the water pools before pipes drain out. Water is coming in at same time it leaves, will be a collection time, pipes are not filled all the way to the top. Could there be a possible mosquito attraction – confirmed is a covered system. Open grate in the lot area? French drain will collect water in the parking lot, will not be a backup of water. Pipe is approximately 15 feet from detention system to street.

No one else appeared and this portion of the hearing was closed with the matter referred back to the Board.

Manny Pereiras clarified grading from bottom of steps to base of building, engineer calculated from street level to base of building – both are correct. Will result in approximately 5 steps.

Patrick Daly – Presented photo of area with existing steps and current of lot.

Roger Denisca, appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert in the field of professional planning.

Mr. Denisca – Explained factors affecting the site as to the variances requested. Set of photos Exhibit 4. Board of 6 photos and nearby properties. Site characteristics: 60 X 139; frontage on two streets; area is 7,961 square feet. Which is smaller than required. Vacant site that was formerly occupied by a business with residences. Vacancy itself is

a negative impact on the municipality and neighborhood. Presently is not a contributing land use source. Apartment on first floor requires a use variance. Prior to December 2014, property was in the B-3 zone that permitted both commercial and residential use with the proposed project being in conformity with the Master Plan which recommends the B-3 zone designation remain. New zoning designation is not conforming to the Master Plan.

Residential use proposed is not permitted in the new zone - if former zone designation, use would be permitted, since December, 2014 not permitted. Substantial benefit to develop the property as a mixed use, site is suitable for proposal with one unit a barrier free use. Provides critical housing need for ages 20 – 34 and 55 – 74. Housing recommendations contained in the Master Plan read into the record which makes the site a contributing site. Based on design and storm water management system and also on the fact the sufficient parking is provided, significant benefits exist to approve the application. Zone requirement is for 15,000 square foot lot - framers decided based on list of uses such as a banks, service stations, pharmacies (requirement may be too small), offices, that lot size would be suitable at 15,000 square feet. Increase would imply more intense uses. None of these uses would be interested in a 7,000+ square foot lot. Side yard requirements are intended for the 15,000 square foot lot, and subject site is little more than half the size and when setbacks applied, the building envelope will be substantially reduced and equates to a hardship as well. Proposal would not be considered an overdevelopment of the site. Surrounding area described in detail. Photo 1 is subject property, photo 6 is other side of Cranford Terrace opposite the site, photo 3 depicts depicts parking area of site and homes within the area, Photos 5 and 6 depict similar mixed use buildings along Centennial Avenue with businesses on first floor and apartments on upper floors although there is a string of one and two-family homes. Plan moves both uses to the Centennial Avenue active side with the parking lot in the rear as buffer for residential neighborhood.

Although not a realtor, condition of surrounding properties is a very important factor, as the site presently exists there is no impact, when developed as a desirable business and living environment, there will be a positive impact on the neighboring areas in his opinion.

Positive criteria for granting of use variance is because both the site and the area are suited to the proposed use and the application advances the purposes of planning. Reasons for conclusion: the site is almost 8,000 square feet on a busy thoroughfare, mixed business and residential use that is scaled for the site, meets most of the bulk requirements, meets parking. Centennial Avenue is a mixed use area. Are indeed other area properties close by of the same use. Master Plan recommends the B-3 zone be continued with no change, and if that was applied, the apartments would be permitted and proposal would be less density than allowable. It is his opinion that the positive criteria are met.

Negative criteria – board has to look at substantial detriments and in his opinion there are no detriments certainly not substantial. Vacant lot that this proposal would eliminate resulting in a positive impact. Bulk variances and waivers will have minimal impact as parking area as exists extends to rear yard and has been there for some time. 10-foot separation is appropriate. Storm water management will improve the site and remove an undesirable condition on the vacant site. No substantial impairment to Zone and Master Plan. In this case, the NC zone does not permit the residential component, but use exists in the immediate area and most important the Master Plan recommended zoning in this area not be change, although it was. Need to reconcile with the Master Plan and application is consistent.

There were no questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness

Christine Daly – Confirmed the new ordinance differs from the Master Plan. Applicants' burden is to show how the application would relate, reconcile etc. Relevant to hear testimony as to the proposed use with what the Master Plan indicates. Parking lot acts as a buffer to the residential area – is a visual open space and provides better transition. Lot is already existing and is unaware of number of spaces previously. Photo marked OD-1, depicts the vacant lot referred to and the Centennial Avenue frontage. Proposed building will be higher than those that are not situated on the hill. Height of the building compared to other buildings - building next door is about the same size and insurance company is larger. Proposal is similar, does not look like a residential building and complies with bulk requirements in size as to what is intended on the site. Asked if a difference use for this lot would also be a benefit, responded in zoning when presenting a use variance, does not have to show the site is appropriate for another use.

Patrick Daly – Referenced neighbor buildings in C-6 on McClellan and Centennial – larger photo of C-6 presented confirmed two residences. Building on Cranford Terrace and Centennial Avenue have 2 residences. Ratskeller property was not surveyed. Insurance Company photo enlarged. Referring to OD-1, believes 2 apartments, and next building does not have any residential units.

Photos Marked as OD-1, 2, 3 and 4

Andzejus Ruskulis – Did testimony infer that the subject property should be grandfathered to B-3 zone? Did not. Parking setbacks were much stricter and would require more spaces.

No one else appeared and this portion of the hearing was closed with the matter referred back to the Board.

Confirmed resident component of the application is the use variance component not only on the 1<sup>st</sup> floor, but all floors in the NC zone per Mr. Hudak.

Mr. Marotta opened the application to the public for comments with the following appearing:

Steve Turner appeared and was sworn in. Parking lot in the rear, saying that it was previously okay does not make it right. Zoning Laws were to protect the neighborhood.

Patrick Daly appeared and was sworn in. Ratskeller has one apartment on the top. Agrees with the wife, ordinances are there to protect the community and the town. While some negotiation may be in order, one foot is just too short. Although different that previous applications, is still too much, all surrounding mixed commercial uses are less in intensity as shown in his exhibits 1-5. Negative impact would be negative impact, mixed use, stress the potential school system, parking problems. Several photos O-6 through 10 that depict on street parking on very narrow streets. Fire trucks do not fit without residents' moving their cars. Ask the Board to deny the application.

Christine Daly appeared and was sworn in. The people who live in the rear are concerned with the location of the parking lot so close to their property, fence in a portion, only shrubbery exists at present. Can only assume the 25-foot requirement was there to protect her family from fumes as well as her property. Was not in agreement with the old lot, believes irrelevant that a building was there before with only 3 or 4 cars in the lot. Problem is trying to do too much on the space of land. This is not the only use for the property, in disuse now because of choices the owner has made. All requests are related and self-made. There is a negative impact to herself and her family. Neighbors should have the protections afforded by the zoning ordinances, is not nothing and believes it should be denied.

Andzejus Ruskulis Appeared and was sworn in. This building is way too big for the small lot. Not in Manhattan or Jersey City and does not fit into the neighborhood.

John Salerno appeared and was sworn in. Positive impact of storm water has been a red herring since a vacant lot, and that area does provide lots of rental units and does not see as a positive, also not near public transportation.

No one else appeared and this portion of the hearing was closed with the matter referred back to the Board.

Board member – in light of neighborhood comments, the assumption has been that it seems to be reasonable when looked at by itself, however residences are not permitted in the NC zone, what is absent is density, asked Planner if analysis was done as to whether density is appropriate – Planner report – in NC zone no residential is included

as part of the bulk standard with exception of one and two family homes. Since the Master Plan recommends the B-3 zone be extended thru, believes the standards for the B-3 zone as a model (one unit per 800 square feet of lot area), could accommodate up to 9 units on site. Another way to measure is whether the units are designed to meet all current housing standards. Parking is provided and met, distance to residential is a waiver not a variance. One less unit would not permit the parking lot to be moved and meet the design standard. Suggestion of having a fence the entire length and space for landscaping in some area and would help substantially.

Mr. DeMassi presented his summation. One consideration of the Zoning Board is to address when the zoning ordinance was imposed as a result of the December 2014 zone change. If site was 15,000 square foot lot would house a much larger building. Here when you have a situation for an undersized lot that is a hardship, cannot put a one or two-family home there, bottom line is that you will still impact on the 25-foot buffer. Provided all required parking and must be give and take as undersized lot. Client is agreeable to install the fence. Lighting can be done in such a way with no glare on neighboring properties. Problem is this land, history of proposal before the Planning Board was for higher density and required a 10 space variance, present application is not requesting a variance for the number of spaces. Believes can accommodate reasonable objections expressed by neighbor. At this location, would neighbors rather an empty lot over proposal with purpose of this Board is to determine benefits to the community with a nonconforming use, improvement to the area and increase real estate values, no detention system exists and one will be installed. Problem when you have a Master Plan that says one thing and a zoning ordinance that says something else. Not certain what happened for this discrepancy, no legislative history to review. Trying to come up with a realistic proposal, but since such a small lot cannot construct a bank, convenience store, and in order to make viable must include residential. Even if proposal was all commercial, same issues would exist. Proposing something that is good for the town and before the Board due to conflict between the Master Plan and the ordinance, concept is to ensure zoning ordinance is consistent with the Master Plan. Stuck with undersized lot and must come before the Board. Would ask the Board to grant the variance and recognize must realistically look at the proposal presented.

**DELIBERATION of APPLICATION #ZBA-15-027**

**Application #ZBA-15-027:**

**Emanuel Nimrud, Applicant**

**469 Centennial Terrace, Block 594, Lot 8, N-C Zone**

**To permit construction of a new mixed use building with the following variances: mixed use structures not permitted in the N-C zone (§136-32C(1); less than the minimum required area for a parking space (§136-23.6(3)[a][1]; no loading or unloading zone provided (§136-23.6(12); less**

**than the minimum required side yard setback (§136-30, Attachment 1, Schedule 1); to permit parking located adjacent to a residential zone (§136-23.6(3)(a); and to exceed maximum allowable impervious surface/lot coverage (§136-30, Attachment 1, Schedule 1).**

Mr. Marotta reviewed the testimony.

Board comments consisted of the following:

In unique situation as proposal was before the Planning Board when originally submitted, and was concern with 3 stories and higher density. Applicant has reduced both, moved building for access to side property and accomplished all elements. When it comes to the Master Plan part, spent a large amount of time discussing Centennial Avenue as not really commercial and not residential, and find it odd that that ordinance does not allow. Sought to create varying housing stock and was key element, wanted less density in the NC on side of the Master Plan believes proposal fits, not certain why ordinance deviates so far from the Master Plan. With regard to neighbor's concern with the lot and understand. Applicant is willing to construct the fence. When before the PB fire truck issue came into testimony, present application has taken cars off the road and applicant understands and is more beneficial then if fire trucks cannot have access to the neighborhood. Believes proposal fits the area. Believes proposal is a good use based off idea of the Master Plan and feels the applicant has come half way to meet. Been back and forth in thought as the evening went along, beautiful building welcome to Cranford, believes a lot to ask of the lot and reservations remain. Believes well designed building, does believe it comports with the intent of the Master Plan and zoning in existence at that time and density would allow 9 units. Building would be beneficial and would fit into the immediate neighborhood, concern is the parking lot up to the property line. Asking for a lot on the property especially when there is no buffer. Serving on Zoning Board and this is one of the most challenging applications, understands both side of the argument, realize there is only so much that can be done. Agrees with parking directly abutting the neighbor's property, but at same time applicant is willing to work to ease, also elevated lot that may have the physical appearance of much larger building. Size of lot is a seriously hardship in terms of possible uses, thoughtful design as buildings along Centennial are brick walls and imposing, proposed is less imposing. Not certain if the entire project could be shifted forward to Centennial. Mr. DeMassi advised spoke to architect and engineer, building could be moved 3 feet closer to Centennial which would allow for a 3-foot buffer but may require a front yard setback.

Mr. Weeks indicated if the Board decides to grant the application, could make this a condition of preliminary and applicant would have to return for final.

If building is set back makes more of a neighborhood commercial rather than downtown which wants properties close on the sidewalks. Discussion held. Mr. DeMassi

explained aisle could be reduced to 22 feet that would provide 2 foot as well as provide landscaping and fence with front yard setback remaining as proposed. Discussion as to reducing the project size. Largest issue was parking lot being immediately adjacent to the neighbor's property. Same concerns that were relayed to the Planning Board and applicant has reduced the building to allow for all onsite parking. Building is 30 foot in height which is same as single family home, is setback sufficiently, not an imposing building.

Motion to grant preliminary site plan of Application # ZBA-15-027 was made by Mr. Illing with the following conditions:

1. Will reduce the parking lot foot candles, remove the corner pole replace by two or three 8-foot poles and will make certain the lot has appropriate coverage by 2 to 3 foot candles with no lite to pass onto any other property
2. Will remove/relocate/replace existing fence to property line
3. Applicant will comply with the COAH ordinance
4. Lighting in building will be turned off when business is not open
5. No idling signs to be posted in the lot and head on parking only
6. Reduce aisle width by 2 feet to allow for fence and landscaping

The motion was seconded by Ms. Hay with the following voting in favor of the motion: Mr. Marotta, Mr. Bovasso, Ms. Hay and Mr. Illing. The following voting in opposition to the motion Mr. Pistol, Mr. Higgins and Mr. Mallon.

Motion failed to get five affirmative votes resulting in application being denied.

#### **PUBLIC PORTION:**

**None**

#### **CONCLUSION:**

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 12:04 A.M.

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Jeffrey Pistol Secretary