

**CITY OF NEW BRUNSWICK
BOARD OF ADJUSTMENT
JUNE 24TH, 2013
MINUTES
7:30 p.m.**

I. ROLL CALL

X	Nancy Coppola,
X	John Cox,
X	Michael Manzella
	Margaret Chester
X	Scott Elias
	Sue McElligott
X	Doug Sheehan (alt)
	Peter Ventrice (alt)
	Jose Madera (alt)
X	Tierream Houser (alt)

II. PUBLIC ANNOUNCEMENT (OPEN PUBLIC MEETING ACT)

III. SALUTE TO THE FLAG

IV. MINUTES OF THE BOARDS MAY 20TH, 2013 MEETING

Motion to approve: Cox
Second: Elias
Approved unanijously

**V. COMMUNICATIONS AND REPORTS-
Resolutions of Memorialization of Approval**

A. 411 JOYCE KILMER AVENUE, LLC, Z-2012-15, Variance application for the use of the existing space for the operation of a place of worship located at 411 Joyce Kilmer Avenue, Block 321, Lot 2.01, Zoning District: I-1

Motion, Cox

Second Sheehan

	Yes	No
Nancy Coppola, Chair	X	
John Cox, Vice Chair	X	
Michael Manzella		
Margaret Chester		
Scott Elias	x	

Sue McElligott (alt)		
Doug Sheehan (alt)	X	
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)		

B. 409 JOYCE KILMER AVENUE, LLC Z-2013-03, Variance application for the use of the building for medical/professional offices located at 409 Joyce Kilmer Avenue, Block 286.01, Lot 1.01, Zoning District: I-1

Motion, Sheehan
Second, Cox

	Yes	No
Nancy Coppola, Chair	X	
John Cox, Vice Chair	X	
Michael Manzella		
Margaret Chester		
Scott Elias	x	
Sue McElligott (alt)		
Doug Sheehan (alt)	X	
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)		

VII. OLD BUSINESS

None..

VIII. NEW BUSINESS

A. 1130 NB REALTY, LLC, Z-2013-02, Variance application for the use of the property as a pet grooming and boarding operation located at 1130 Somerset Street, Block 597.01 Lot 10, Zoning District: C-6

Board member Michael Manzella was sworn in by Board Attorney Arivind Aithal.

Mr. Aithal recused himself from this application due to a conflict as he previously represented the applicant. Mr. Chris Nelson will substitute for him for this application.

Peter Lanfrit, Esq – Property is owned by 1130 Somerset LLC since 2007 and is primarily used for warehouse purposes. The proposal is to use a portion as a pet retail store, which is permitted and as a kennel, which is not a permitted use.

A previous application for a larger retail use had been approved but that approval has been withdrawn.

Michelle Fieden, store owner – she stated she has over 10 years experience managing a pet retail facility. The “doggie day care” operation is a pick up and drop off facility. Dogs are kept during the day, groomed and returned at night to the owner. Boarding is also provided. Hours are anticipated to be 7A-7P, 5 days. Dogs may be boarded over the weekend. Employees may be there overnight, but it is not likely. Potentially there may be 20 employees and 60 dogs. The facility will have facilities to take care of dog waste and address odors. Grooming and retail will also be provided there.

Sharif Aly, Eng and Planner

There is an existing building with 52,000 sf and 174 parking spaces. Site improvements including parking lot improvements to demarcate the parking stalls and circulation. There is excess parking available on the site.

An outdoor dog run area of 400 sf will be on the outside of the building.

The plan changes requested in the City Engineer’s memo can be accommodated.

The use variance can be granted as the site contains adequate parking, is not near residential uses and there would be no detrimental effect on the zone plan from the use.

Elias – what is the dog run surface? Aly – it is broken black top. Fieden says it will be turf or grass. The fencing will be 4 ft high chain link. Elias questioned the height and they said they would put up a 6 ft chain link.

Coppalo – do dogs run free in the outside area? Fieden – it is a dog walk area

Coppola – how far from the dog store to dog run? Aly – it is about 150 feet.

Coppalo – is the area lighted? Aly – there is lighting in the parking lot that will light the path and the dog area

Elias – potentially have 60 dogs and have to go 150 ft to the dog run. How is this done logistically? Fieden – not all dogs need to go outside and they can stay inside.

Public
None

Elias – need in town for this

Motion to approve with conditions Cox
Second: Manzella

	Yes	No
Nancy Coppola, Chair	X	
John Cox, Vice Chair	X	
Michael Manzella	X	

Margaret Chester		
Scott Elias	X	
Sue McElligott (alt)		
Doug Sheehan (alt)	X	
Peter Ventrice (alt)	X	
Jose Madera (alt)		
Tierream Houser (alt)	x	

B. JOSE AZCONA & PEDRO FERNANDEZ, NU-2013-01, Certification of Pre-Existing Legal Non-Conforming Use or Structure (NJSA40:55D-68) for the use of the third floor as two-rooming units located at 134-138 Throop Avenue, Block 211 Lot 23.01 Zoning District: R-5A

Mr. Aithal returned as the Board's attorney

Thomas Abode, Esq. and Robert Lecky, Esq –
Application is to get certification of the 3rd floor rooming uses as pre-existing non-conforming uses.

Jose Azcona – He resides at 148 Throop. He purchased the property in 2004 and had lived there since 1992. It was used as rooming units on the 3rd floor when he moved there. He also complied with the City inspections of the property at the time of his purchase. The rooming units were continuously used as rooming units since he rented there in 1992 and continues so today.

Jimmie Cook – He sold the property to Azcona. He purchased it in 1989 and occupied it as a tenant and was familiar with the rooming uses since about 1984. He continued the rooming use as long as he owned it. When he purchased it from Marie Maroon a condition was that he had to continue renting to an existing tenant in the rooming units. The existing tenant had lived there for a long time before he purchased the building which he estimated to be around 1970. He went through the City approval process when he purchased the building in 1989.

Joseph Spataro, Architect and Planner –
He visited the property in November 2012. The units were well maintained. The construction of the rooming area appeared to have been from the 1940's based on the style of the plumbing fixtures and other finishes. The area appeared to be part of the original construction and was not an addition. There would be no detrimental effect from certifying the use as it fits in well with the neighborhood and there is no record of construction, property maintenance or disturbance violations. The property exists in unison with the neighborhood. It also provides low cost housing in the city where there is a need for it. Saltelite imaging shows the property in the same shape since at least the 1960's.

Manzella – where is the access from? Spataro – an interior stairway.

Public.
None

Motion to Approve Cox
 Second: Manzella

	Yes	No
Nancy Coppola, Chair	X	
John Cox, Vice Chair	X	
Michael Manzella	X	
Margaret Chester		
Scott Elias	X	
Sue McElligott (alt)		
Doug Sheehan (alt)	X	
Peter Ventrice (alt)	X	
Jose Madera (alt)		
Tierream Houser (alt)	x	

C. RUTGERS HILLEL CORPORATION, Z-2013-05, Site plan and variance application for the construction of a new Rutgers Hillel Facility located at 70 College Avenue, Block 54 Lot 9.01, Zoning District: College Avenue Redevelopment Plan Area 2

Meryl Gonchar, Esq.

Hillel is again seeking site plan and use variance but now at 70 College Ave. The property is used as a Rutgers parking lot. They seek a minor subdivision from the larger Rutgers lot. The lot is also in the College Ave Redevelopment Area but they are not a designated redeveloper.

Hillel would use the building for Friday night dinners, Jewish social and educational use. They need a D-1 use and D height variance. The variances are similar to the ones previously granted at their site about a block away. Rutgers subsequently asked to acquire the original property and swap this land for the original Hillel land.

They are a permitted use under the redevelopment plan but because of the height variance they fall within Zoning Board jurisdiction.

Andrew Getraer, Exec. Director of Rutgers Hillel

Their mission is to address social, cultural and education needs of Jewish students at Rutgers. They also provide for religious services and meals. Meals are on Friday evenings, with 200-300 students and at Jewish holidays. The facility serves as a student center. It is open to all, not just Jewish students.

The current Hillel site is at 93 Hillel, which is almost across the street. They need to move as they need more space and their current building is being torn down as part of the Seminary redevelopment.

They have approval for the property at George and Bishop. They were approached by Devco and Rutgers, who proposed a land swap to accommodate the Rutgers Honors College. This alternate site is a better site for Hillel as it is central to the campus.

Rutgers Hillel is not part of the university, but they are a chaplaincy of the university. They are a non-profit private organization funded with private donations. There are no membership fees.

Most students get to Hillel by foot, bicycle or bus and they anticipate this will continue. They have almost no parking at their current location. They have 12 employees and some student interns. Other parking demands, such as during the high holidays, where the facility is open to the larger Jewish population and Rutgers cooperates in providing parking in campus lots. Rutgers has provided a letter to memorialize this relationship.

Deliveries are typically office supplies and UPS, with some small trucks for food delivery.

Signage is requested to identify the building and would be typical of university-type buildings. The signs will not be for advertising. There may be signs to identify principal donors.

Glenn Lloyd – Surveyor

The survey shows the proposed subdivision of the existing lot into two lots. They will provide the Board with the metes and bound description and will coordinate with the Assessor for the new lot designation numbers.

Lisa DiGerolomo, Eng.

A-1 Google map aerial photo

The property currently fronts Union, Mine and College Ave. It is used as a surface parking lot for Rutgers. There is access off of College Ave and Mine Street. The elevation rises about 12 feet from College Ave to Union Street.

A-2 colorized site plan

The proposed building has a footprint of about 21,000 sf. Access is through a shared driveway with Rutgers off of Mine Street. Parking is provided for 14 cars with handicapped parking provided. There is a refuse area and loading area in the rear. Bicycle parking is also provided. The stormwater run off is improved over the current parking lot condition. This improves water quality and there is no increase in runoff. Utilities are connected off of College Ave.

The permitted height is 35 ft and 50.5 is provided. As the site rises towards the rear, the height from the ground in the rear is much less.

Elias – what was the height approved in 2011? DiGerolomo – 58 ft.

Elias – can Rutgers build on their part of the driveway? Gonchar – no there is an easement.

Donald Kann, Architect

The site is narrow and deep and presents design challenges. The building itself sits back at the typical building setback distance for College Ave. The front porch extends to the sidewalk. It is essentially a 2-story building. The site rises about 17 feet as it goes towards Union Street. The first floor has welcome space, offices and dining area.

The second floor does not extend the full length of the 1st floor, it is setback.

A-3 colored rendering of building perspective.

There is a front porch and a front trellis area. The building is 2-stories with façade materials of cast stone, metal and glass. The average height of the building is less than 35 feet but portions do rise to 50 feet. The adjacent building is 3-story.

The building will meet LEED criteria.. It will have a small green roof, be insulating wrap and insulated windows and low water use plumbing fixtures.

There are 22 possible sign locations but some are “either/or” and not all will be used. The old approval had 7 signs with 400 sf. Discussion was held about the granting of 22 signs meant 22 signs could be placed and if there is an intention to place less it would still allow them to have 22 if they changed their minds.

Richard Preis – Planner

There are 3 D variances, use, FAR and height. Hillel is an inherently beneficial use as it services as an educational and cultural institution. It also functions as a house of worship, which is a recognized inherently beneficial use. Therefore, the Medici standards are supplanted by the Sica 4-part balancing test. The public interest is met as it services the Jewish community and is protected by RLUIPA law. The impact test is met as the height and FAR appearance of the building height is less than measured due to the lot slope, the redevelopment area allows a 40 ft height and other buildings in the area are of similar height. The FAR variance is minimal and does not overwhelm the neighborhood. The building relates to the surrounding campus neighborhood. The level of activity is similar to the nearby university facilities.. There is no detriment to the land use plan as the use is similar to the permitted university uses at this location in the IN-1 zone. Test 3 of Sica is whether conditions can be added to ameliorate the detriments but in this case none are justified. Test 4 is whether the public interest is moved forward on balance and it is as having Hillel on campus improves the university experience for students.

The bulk variances are also justified. The lot width on Mine Street is 36, but there is no change in condition proposed. This can be granted without detriment. Building coverage and impervious coverage variances are due to the need for a land swap with Rutgers. There is also no increase in runoff. The front yard setback of 1.5 ft, rear yard of 10 where 20 ft is required and accessory setback where 2 is provided and 3 ft required, the front yard is due to the porch area, not the building itself. The rear yard setback is adjacent to the Rutgers parking area and not a building and is sufficient. The accessory building setback is due to the presence of a retaining wall.

The required parking is 149 with 15 provided. Special events will use off-site parking. The 14 spaces accommodate the dozen or so staff while students walk or take the

campus bus. There are also 4 dedicated spaces to be provided by Rutgers on the Rutgers surface lot.

The signage variance of 22 signs with 538 sf with one 16 sf sign is permitted. Most of the signs are for donor signs, not commercial signs or identity signs. They will be done tastefully.

A-4 Rutgers parking letter from Jack Molenaar, Rutgers Director of Transportation.
A-5 Rutgers dedicated Hillel parking spaces (4) from Antonio Calcado, Rutgers Director of Facilities.

There are also bulk variances on the remaining Rutgers lot for impervious coverage and accessory shed setback. These are existing conditions.

Public:

Charlie Kratovil – when will construction start and finish. Getrar – the schedule isn't known yet. The land swap is land for land with no cash

Tom Strubble – How will access to the remaining Rutgers lot function as Mine Street seems to have to handle all the traffic now. How will Rutgers get into this lot?

Gonchar – the Mine Street driveway will be shared.

Preis – he does not believe there will be a substantial traffic impact as lot users arrive at varied times.

Strubble – is the café a retail operation

Getrar – it is for kosher food, and will not be like Au Bon Pain.

Strubble – will delivery trucks come in off of Mine St

Getrar – yes but they will be van sized trucks.

Strubble – concerned with 22 potential signs and that the façade does not fit in with the rest of the neighborhood and the height is higher than nearby buildings.

Jennifer O'Neil – 15 Mine Street

The proposed facility is much larger than the current facility so isn't staff going to increase?

Getrar – existing programs that are scattered will be centralized so the staffing stays the same.

O'Neil – concerned about how the architecture fits into the neighborhood. Concerned with the large glass front.

Getrar – did not want the building to feel institutional and wanted it to feel residential. The architecture along Collge Ave is a hodge-podge and felt a residential feel would add to the campus architecture. The new Seminary and grease truck lot building will have a lot of glass.

Rob Moskowitz – owns 4 homes on Mine Street

Concerned that resident parking passes could be threatened due to heavy traffic volumes.

David Drinkwater – 13 Mine Street
Concerned about the size of the building and that it doesn't fit in well with the neighborhood.

Gonchar – signs would be limited to 12 signs and 400 sf as some signs fall under the definition of exempt signs.

No public comment on the sign change

Mike Manzella – while there may be more induced traffic on Mine Street, the College Ave traffic will be reduced as there is less parking at the site. And before this land was Rutgers and there would be no control over the development.

Motion to approve with conditions Cox
Second: Manzarell

	Yes	No
Nancy Coppola, Chair	X	
John Cox, Vice Chair	X	
John Sutton		
Margaret Chester		
Scott Elias	X	
Sue McElligott (alt)		
Doug Sheehan (alt)	X	
Peter Ventrice (alt)	X	
Jose Madera (alt)		
Tierream Houser (alt)	x	

IX. ADJOURNMENT