

**CITY OF NEW BRUNSWICK  
BOARD OF ADJUSTMENT  
OCTOBER 26, 2015  
MINUTES  
7:30 p.m.**

**I. ROLL CALL**

	Nancy Coppola, Chair
X	John Cox, Vice Chair
X	Margaret Chester
X	Sue McElligott
X	John Zimmerman
X	Maria Torrisi
X	Doug Sheehan (Alt #1)
X	Christopher Reinhart (Alt #2)
	(Alt #3)
	Natalie Azcona (Alt #4)

x	Board Attorney Aravind Aithal
x	Board Secretary/Director of Planning Glenn Patterson
x	Principal Planner Mark Siegle
	Board Planner Henry Bignell
X	Board Planner Todd Bletcher
	Board Engineer Tom Guldin
	Conflict Engineer Chas. Carly

**II. PUBLIC ANNOUNCEMENT (OPEN PUBLIC MEETING ACT)**

**III. SALUTE TO THE FLAG**

**IV. MINUTES OF THE BOARDS SEPTEMBER 21, MEETING**

Motion to approve: Torrisi  
Second: Reinhart  
Approved by unanimous voice vote

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

- A. CHURCH OF OUR LADY OF MT CARMEL, Z-2014-09**, Site plan and variance application for the construction of an addition to the existing place of worship located at 75 Morris Street, Block 129, Lot 9.01, Zoning District: C-4  
 Motion: Zimmerman  
 Second: Torrisi

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	X	
Margaret Chester		
Sue McElligott		
John Zimmerman	X	
Maria Torrisi	X	
Doug Sheehan (Alt #1)	X	
Christopher Reinhart (Alt #2)	X	
(Alt #3)		
Natalie Azcona (Alt #4)		

**VI. OLD BUSINESS**

- A. ALTRAGRACIA RODRIGUEZ-Z-2014-15**, Variance application for the conversion of ground floor space into a beauty salon and grocery store located at 149-151 Joyce Kilmer Avenue, Block 241, Lots 1 and 2, Zoning District R-5A

Peter Lanfrit, Esq. – The applications is for use variances for three separate buildings. There is an existing beauty salon in the building on the corner, with an apartment above. There is a vacant building to the south (151 Joyce Kilmer Ave.) and a garage in the rear of 149 Joyce Kilmer. The proposal is to move the salon to the vacant building and turn the current salon into a grocery store. The garage will be used for storage. The application has gone through three technical review meetings with the board professionals.

Susan Sheffmaker, Architect – The plans she will testify to are the same as the plans submitted for the application and will therefore not be separately marked.

Sheet Z-1 shows the 149 Joyce Kilmer building with the existing mural being retained. Paint on the building will be a neutral color that will complement the mural. The windows and screens will be returned to good condition. The garage in the rear will also be brought back to good condition. The current condition of the building is worn on the exterior. The interior is well maintained. The applicant is the salon operator not the building owner.

The 151 Joyce Kilmer building is also worn out. It will be brought back to good repair. The interior of this building needs work. The building appears to have been used for a commercial use, but it is not known what type of use.

Sheet Z-2 shows the plan for the proposed grocery. The basement has a finished area for storage only and an unfinished area. The basement is accessed from within the grocery area, plus they will add an exterior bilco door. The first floor plan moves the 2<sup>nd</sup> floor access stairs. An accessible entrance is created for the grocery store. There will be display shelves and a deli counter. All refrigeration will be inside. An employee bathroom will be added.

On the second floor, the apartment to the right stays the same except the stairway that will be moved.

Sheet Z-3 shows the salon space. It will have the same number of chairs as the current salon. It will have an accessible bathroom. There will be accessible salon stations at the front of the store (there is a "step up" inside the store towards the rear).

There is a basement for 151 Joyce Kilmer that will be used for storage only.

Sheet Z-1 shows the garage space. It will be repaired. It will be divided in two separate spaces for trash/recycling on one side and grocery storage on the other.

Reinhart: A note on Z-2 says there is no change to façade, but also states there is a proposed accessible ramp. Sheffmaker – this adds an accessible platform to meet code.

Reinhart: how is the step addressed for accessibility? Sheffmaker: the step is being lowered. This will require the door being lowered, which is a minor façade difference.

Mr. Lanfrit stated that Mr. Marquez, the next witness understands English but only speaks Spanish. He has a statement from Mr. Marquez he asked to read and that Mr. Marquez will confirm. Mr. Aithal said this may create a problem if cross examination of the witness is needed. Mr. Aithal said the Board can cross this bridge if they get to it. Mr. Marquez is the intended operator of the grocery.

Elizabeth Marmoleojos was sworn in as a Spanish-English translator. She is a bilingual teacher at the New Brunswick High School, where she has translated for people.

Mr. Lanfrit read Mr. Marquez' statement: He is Ms. Rodriquez' husband. She operates the salon. They are tenants at the property. If this application is approved they would enter into a lease for the other building with an option to purchase. The salon has been in operation for 10-12 years with Ms. Rodriquez operating it for the pasts 3.5 years. It is open 7 days, Mon-Sat from 9-8, and 9-5 on Sunday. There are 7 employees but not all operate at the same time. About 80% of the trade is walk-ins.

There will be no prepared or hot foods at the grocery store. There will be packaged foods, coffee, rolls, sandwiches. There will also be meat/poultry products also. It is not a live poultry store. He owns a similar store at 12 Jersey Avenue. The hours of operation would generally be 8A-10P, 7 days a week. He will have 5-10 full or part-time employees. There are no grocery carts. Customers will use hand baskets.

Milk deliveries will be twice per week in a box truck, not a tractor-trailer. Other products will also come in box trucks or vans with one delivery per week. Storage will be done in the basement and garage. Trash will be stored in the garage in a separate area. Private trash pickup will be used.

Altragracia Rodriquez, operator of the salon, confirmed the trade was mostly walk-ins. The operation of the salon would be the same as it is now.

Ms. Chester asked how many employees at any one time. Mr. Marquez said it will depend on how the business goes. Three or four in the morning will be the peak. Non-edible products will be stored in the garage.

Ms. McElligott: what kind of trash containers? Twice a week pickup will be provided. Trash will be stored in the containers the company provides. They will likely be "Totes", i.e, heavy plastic containers.

Mr. Cox asked what is the maximum employees of both businesses combined? Mr. Marquez and Ms. Rodriguez said 4 and 5 for a total of about 9. They said most employees live locally and walk to work.

Robert Gazzalle, Engineer – He observed that parking is available on-street on both Joyce Kilmer and Sandford. It is a 5,000 sf lot with three structures. There is a parking area behind 151 Joyce Kilmer with access from Sandford Street. There are no delineated parking spaces on the lot. The proposal is to provide 3 parking spaces for the residential apartment with three bedrooms. They will have signs to restrict the use of the spaces. Wheel stops will be installed. There will be security lighting added to the garage. Concrete will be added to replace damage concrete. A Bilco door will be added to access the basement. The garage will be used for storage of non-food products in one area and trash/recycling in the other. There is no lighting other than the security lighting. There is no new landscaping. The existing fencing will have a gate added where residential trash containers can be stored.

Mr. Cox asked what condition is the parking surface in now? Gazzelle said it was in good condition.

Ms. Chester: why is the Bilco door being added? Gazzelle: it is partly to allow for deliveries.

Mr. Bletcher: The wheel stops block access to the garage so there are only 3 on-site parking spaces? Gazzelle: Yes. The parking requirement is 13 and 3 are provided. Mr. Aithal stated that the notice stated that 5 parking spaces would be provided, not 3. Mr. Lanfrit said this was due to plan changes during technical review

Mr. Bletcher asked about both attic spaces uses. Gazzelle stated both will be unoccupied attics..

Mr. Reinhart: He asked if research had been done as to how many people are needed to support a grocery store.

Kevin O'Brien, Planner –

The applicant is seeking a D1 use variance and D4 FAR variance to add the grocery store. None of the bulk standards change. The property is in the R-5A 1-2 unit residential district. The uses are not permitted uses.

The salon exists at the location due to a use variance granted by the zoning board previously.

The applicant is a tenant, not the owner. He is willing to make the improvements as a tenant and believes the investment will pay off. By moving next door, the salon operator hopes to keep her existing clientele. Having a grocery store at the location is a benefit to the neighborhood. There is a similar one a block away but no others nearby. There are over 50 in the city overall. Neither store expects many driving customers. The owner currently owns a similar store at 12 Jersey and has had no health code violations over the 10 years he has operated it. He operates an orderly business there and will clean up the conditions at the Joyce Kilmer property.

A-1 and A-2 – photos of the existing buildings. The salon is the best maintained part of the existing structure. The applicant will bring up the quality of the other buildings to a similar standard. The 151

Joyce Kilmer building was used commercially in the past. The grocery will provided a needed service to the community.

He stated that groceries are common in urban neighborhoods, typically at corner locations such as this. He said parking is not a necessity as the neighborhood is very walkable.

He said the master plan discusses placing services such as the grocery in neighborhoods to create mixed-use neighborhoods. He cited three places where such citations are stated in the master plan. The plan specifically states that corner groceries are considered good uses. Additionally, the purposes of the R-5A zone discuss preserving the character of the neighborhood and this adapts the existing structures for a good use. The MLUL purposes e. g. and i are met by this application as it is an appropriate location for a store in this neighborhood. He said the use would not have a negative impact from the two uses. He believes the project will have a positive impact as jobs will be created, taxes paid, services provided and the mural cleaned up. His conclusion is that the use passes the test for particular suitability as the salon is already there and the grocery is called for in the master plan. Special reasons are supported by the language in the master plan, which states uses like this “are good”. It is particularly suited for this location. The application can be approved without detriment to the public good, zone plan or zone ordinance.

Mr. Lanfrit stated that the applicant had addressed all of the comments in the Bignell planning report and the City Engineer’s report. They will comply will all the report comments.

Mr. Cox asked that if the application is denied, doesn’t the owner have to clean up the site? Mr. Lanfrit said the tenant will make the improvements and will provide evidence of this to the staff. Mr. Aithall said the improvements would be part of the approval.

Public:

Rocco Somario, Esq. – represents Juan Taveres, owner of a grocery store two blocks away. He has a petition opposing this grocery. Mr. Lanfrit objected that the petition is inadmissible as the veracity of the signers cannot be determined and cannot be cross-examined.

Mr. Somario said there are concerns about the parking as his client’s store has parking and it is used by customers. There have been no specifics about the walk-in clientele of the grocery and his client’s experience is different.

Loading is concern as no parking is permitted in front of the store.

Traffic congestion is a concern. There is an auto repair store across the street. There have also been accidents at the intersection.

Mr. Cox asked: isn’t the Tavares parking actually the parking for Joyce Kilmer Park? Somario stated it was but was used by the Tavares grocery.

Ms. Chester asked how deliveries were made at the Tavares grocery? Somario said he didn’t know.

Mr. Lanfrit asked how big the Tavares grocery is. Somario did not know.

Danielle Moore

She had photos of traffic accidents. Mr. Lanfrit objected to the photos as they were taken before improvements were made at the intersection. The pictures appear to be more than 3 years old. Mr. Aithal said the Board can consider the photos and they were marked O-1 through O-4.

She also said that many school buses turned at this location. She was concerned where deliveries would be made without double parking. She also expressed concerns about customer parking as some customers would drive.

Mr. Lanfrit asked if she was familiar with the daylighting pylons and that there are no pylons in front of the building where the salon will be and therefore parking is permitted there. She said no. He asked if there were restrictions on the Sanford Street side. She said there as yellow no-parking paint. Mr. Lanfrit asked if that ran the length of the property. She said it ran most of the length.

Carolyn Smith

She lives directly across the street from the applicant's property and already has significant litter problems and the grocery store will exacerbate this.

Elizabeth Marmoleojos

The applicants are hardworking and pay their taxes. You find trash and accidents at any bodega, so this should be allowed here. Where ever there is a bodega, there is a chaos, so this should be allowed here.

Ida Alexander,

She lives across the street from the site. The salon use is not a problem but the grocery will create problems. She says there are many corner stores in the neighborhood already. All the customers will not be walk-ins, but some will drive and there is inadequate parking.

Eugene Cerman,

He says he has known Mr. Marquez for many years but is concerned about safety if the store goes there. He says there is not enough room for a store at this location. Trucks cannot turn around on Sandford Street as it is a dead end and it will be a circulation problem.

Nelly Cruz,

Mr. Marquez' other store does not have a crossing guard. The school puts the guard there.

Charlie Kratovil,

He asked if the mural will remain. Mr. Lanfrit said yes.

Did the notice understate the severity of the parking variance. Mr. Aithal said yes, but it met the standard of putting the public on notice that a variance is needed.

Mr. Lanfrit recalled Mr. Gazalle to address deliveries. Mr. Gazzalle said the no-parking prohibition was 50 feet from the corner, whereas the property is about 110 feet deep including the sidewalk, with 30 feet before the driveway. This is adequate for delivery truck parking. The driveway space can also be used. Box trucks can use this driveway for a k-turn to turn around.

Mr. Reinhart: how will the turn-around work in the tenant parking spaces? Mr. Gazzelle said the truck would use the driveway but not the parking space itself, as the parking spaces are recessed.

Danielle Moore,

She asked how a truck could turn in the on-street parking spaces? Mr. Gazzelle explained that the driveway would be used. She expressed further concern about parking on the street. Mr. Lanfrit expressed that there was legal parking past the no parking area.

Lillian Luco,

She lives next to the park by the other grocery store. She says the delivery trucks can't use Sanford Street to turn around. She says the deliveries have to be done on Joyce Kilmer. It is also the main route for the school buses.

Public Session Closed:

Mr. Lanfrit summarized that the MLUL provides a basis for granting these variances and the master plan supports stores such as this. The main issue has been parking and this store does not have a park next to it like the other grocery. There is room for a truck to turn around using the driveway for a k-turn. He suggested the Board condition approval on no Joyce Kilmer Ave deliveries. The store operator can direct this.

The majority of testimony is that the neighbors don't know that the salon is there, which shows what type of operators the applicant is. Most customers will walk. Some will drive but it is minimal at best. The applicant will improve the existing dilapidated buildings.

Board Discussion:

Zimmerman asked if delivery time and place restrictions could be put in place. Mr. Patterson said this would be difficult to enforce if the condition was included. Mr. Aithal also said the City, not the Board, has jurisdiction over when and where a truck can park or drive.

Mr. Lanfrit suggested that the on-site parking could be only one residential space and the others used for deliveries. Ms. Chester said this was not a good suggestion.

Motion to Approve: McElligott

Second: Chester

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	X	
Margaret Chester	X	
Sue McElligott	X	
John Zimmerman	X	
Maria Torrisi	X	
Doug Sheehan (Alt #1)	X	
Christopher Reinhart (Alt #2)	X	
(Alt #3)		
Natalie Azcona (Alt #4)		

**I. NEW BUSINESS**

None

**II. OTHER MATTERS OF INTEREST TO THE PUBLIC**

None

**III. ADJOURNMENT**

Motion to adjourn: McElligott

Second: Zimmerman

Approved by unanimous voice vote