

Regular Public Meeting of the Englewood Cliffs Planning Board  
Minutes  
July 10, 2014

The Regular Meeting of the Englewood Cliffs Planning Board was called to order by Chairman Fehre at 7:30 PM.

Present at Roll Call:

Mr. Fehre  
Ms. Rosenberg  
Mr. Kilmartin  
Mr. S. Kim, 4<sup>th</sup> Alternate  
Mayor Parisi

Absent:

Mr. Dooly  
Mr. Chinman  
Mr. Trovato  
Mr. Nikow  
Councilman Aversa  
Mr. K. Kim, 1<sup>st</sup> Alternate  
Mr. Duffy, 2<sup>nd</sup> Alternate  
Mr. Surace, 3<sup>rd</sup> Alternate

Also Present:

Bernard Mirandi, PE, of Boswell Engineering, the Borough's consulting engineer  
Matthew Z. Earle, Esq., of Kates Nussman Rapone Ellis & Farhi, the Board's attorneys.

Public notice of this meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, The Star Ledger, and posting of notice on the municipal building bulletin board at 482 Hudson Terrace.

Flag Salute led by: Ms. Rosenberg

The minutes of April 30, 2014 meeting motioned by Ms. Rosenberg seconded by Mr. Kilmartin were approved by voice vote.

Old Business:

**Application #232K -** Height Variance  
Bong I. Jung, d/b/a Bridgestone Construction, Inc.  
60 Sherwood Ave. - Block 405 - Lot 3

Mr. Cereste came in front of the board in regards to the application requesting that since only 3 members are present from the last meeting he would like to get a transcription of the last meeting done so that all members can be up to date to vote at the next meeting. He requested the application to be carried to the August 14<sup>th</sup> meeting.

Chairman Fehre stated that there will be not testimony and that you will not re-notify and will carry it to the next meeting of August 14<sup>th</sup>. The applicants option is to re-notice to the 200' list not in the newspapers due to a concerned resident in the audience.

**Application #223K -** Site Plan Approval w/Variances  
Investors Bank - 19 Sylvan Avenue - Block 134 - Lot 2  
**Denied – Resolution**

Mr. Earle announced that the resolution was not completed in time for the meeting and will be put on the agenda for the next meeting of August 14<sup>th</sup>.

**Application #229K -** Commercial Site Plan Approval/Child Day Care  
120 Charlotte Place Associates  
120 Charlotte Place - Block 313 - Lot 1  
**Approved – Resolution**

Mr. Earle, Board Attorney, read the resolution which is incorporated herein as though fully stated and made a part hereof. Mr. Fehre made a motion to adopt this resolution, seconded by Ms. Rosenberg. The Chairman asked for a roll-call vote of the members that were eligible to vote: E. Fehre, and Mr. Sean Kim they each voted to adopt this Resolution; it was unanimous.

**Application #231K -** Commercial Site Plan Approval  
NBC Universal Media, LLC  
900-904 Sylvan Avenue - Block 1201 - Lots 8 & 9.01  
**Approved – Resolution**

Mr. Earle, Board Attorney, read the resolution which is incorporated herein as though fully stated and made a part hereof. Mr. Surace made a motion to adopt this resolution, seconded by Mr. Kilmartin. The Chairman asked for a roll-call vote of the members that were eligible to vote: E. Fehre, R. Kilmartin, Mr. Chinman, Mr. K. Kim, and Mr. Surace, and Mr. Sean Kim they each voted to adopt this Resolution; it was unanimous.

**Application #226K -** Sign Variance  
CFI 221, LLC/Bergen Protective Systems  
325 Sylvan Avenue - Block 412 - Lot 2  
**Approved - Resolution**

Chairman Fehre called up Mr. Sekas attorney for the applicant in regards to the resolution. Mr. Sekas stated that at the last meeting the board approved the application for only the monument sign. He would request that the board not approve the resolution tonight since he is in discussion with his client and Mr. Kates to bring back a new application for the signs with a redesign. We request the board to hold the resolution so that his client will not have to use litigation to resolve this matter. We are requesting one month. Mr. Fehre questioned if they will re-notify or is it a new application. Mr. Sekas requested a continuance and he will do all the proper notification. Mr. Fehre stated that the board will carry this to the August 14<sup>th</sup> meeting.

**Application #234K -** Height & Front Yard Variance  
Philip & Paula Aurbach  
201 Lyncrest Rd. - Block 714 - Lot 1  
**Approved - Resolution**

Mr. Earle, Board Attorney, read the resolution which is incorporated herein as though fully stated and made a part hereof. Mr. Fehre made a motion to adopt this resolution, seconded by Ms. Rosenberg. The Chairman asked for a roll-call vote of the members that were eligible to vote: E. Fehre he voted to adopt this Resolution.

**New Business:**

Chairman Fehre requested a motion to approve the Annual Report Excel Spreadsheet only. Mr. Kilmartin made a motion, seconded by Ms. Rosenberg and carried unanimously by voice vote.

**Planning Board Subcommittee Assignments:**

Chairman Fehre recommended the following members to the following subcommittees:

Master Plan Committee - E. Fehre, M. Trovato, V. Surace

Subdivision Committee - E. Fehre, M. Trovato, V. Surace

Site Plan Committee - E. Fehre, M. Trovato, V. Surace

**Application #233K -** Site Plan Approval with Variance  
Bank of New Jersey  
744 Palisade Ave.. - Block 512 - Lot 4,5,6

Chairman Fehre announced that this application will be carried over to the August 14<sup>th</sup> meeting and will not have to re-notice.

**Application #236K -** Classification of Subdivision as Minor  
Daniel Dooly - 529 Floyd St - Block 616 - Lot 13 &  
24 Clifton Terrace - Block 616 - Lot 25

Chairman Fehre stated that it is a minor subdivision the subdivision committee meets and if they agree that it is a minor subdivision then there is no action to be taken at the public meeting. Subdivision can be done by the applicant without notification and without public comment. In this case the subdivision committee met and did agree it was a minor subdivision so it is going on that basis.

Chairman Fehre stated that at this time there will be a comment in regards to the B2-A Overlay Zone Ordinance.

Mayor Parisi requested that the board postpone any future meetings for the Master Plan since there has been changes to an ordinance that was introduced by title only at last night's Mayor & Council meeting. He requested that the board review the ordinance change and give a report to the Mayor & Council for approval. The borough attorney will be sending the ordinance change.

Chairman Fehre requested a motion to postpone the B2-A Overlay Zone Meeting. Motion was made by Mayor Parisi, seconded by Mr. Sean Kim and carried unanimously by voice vote.

Chairman Fehre requested any Committee Reports. There were not to be reported.

Chairman Fehre called up Mr. Sekas in regards to a statement he had for the board.

Chairman Fehre and Mrs. Rosenberg recused themselves at this time. Ms. Rosenberg left the meeting at 8:05 pm. Mr. Fehre stood in attendance but did not participate.

Mr. Sekas stated he had a statement he would like to make in regards to the action of the Mayor and Council. (Full statement attached to minutes)

Chairman Fehre after the statement participated in meeting from this point forward.

Chairman Fehre then requested a motion to open to the public. Motion was made by Mr. Kilmartin, seconded by Mayor Parisi and carried unanimously by voice vote.

Karen Geiger, 270 Alfred Street wanted to know the time frame in regards to the Planning Board reviewing of the ordinance that was introduced by the Mayor & Council. Mayor Parisi stated that once the ordinance is written up it will go to the Board to be reviewed and recommended to the Mayor & Council. Mayor gave the steps on the adoption process.

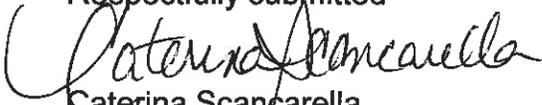
Mary O'Shea, 12 Irving Avenue wanted to know if the discussion in regard to the ordinance be done at a public meeting. Mr. Fehre stated yes.

Carrol McMorrow, 7 Ridge Rd was confused with the process of the ordinance. She thought that any changes in the zoning has to come from the Planning Board first not from the Mayor and Council first. Mr. Earle stated that there is no requirement of a recommendation first from the Planning Board before going to the governing body. The governing body can make the changes and then send it to the Planning Board for recommendation. Anyone can recommend to the governing body.

Mary O'Shea, 12 Irving Avenue questioned the application about the subdivision and what it was. Chairman Fehre stated that this was a subdivision that was granted but the deed was never perfected.

Chairman Fehre requested a motion to close the public portion and adjourn the meeting at 8:30 pm pm. Motion was made by Mr. Kilmartin, seconded by Mr. Sean Kim and carried unanimously by voice vote.

Respectfully submitted

A handwritten signature in cursive script, appearing to read "Caterina Scancarella".

Caterina Scancarella

Planning Board Administrative Secretary

**ENGLEWOOD CLIFFS PLANNING BOARD**  
**REGULAR MEETING – July 10, 2014 7:30 PM**  
10 Kahn Terrace, Englewood Cliffs, NJ

**CALL TO ORDER**

The meeting of the Englewood Cliffs Planning Board will come to order this (date). The time is (time).

**OPEN PUBLIC MEETINGS ACT" STATEMENT**

Public notice of this meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, Star Ledger, and posting of notice on the municipal building bulletin board at 482 Hudson Terrace, Englewood Cliffs.

**ROLL CALL**

**FLAG SALUTE LED BY:**

**APPROVAL OF MINUTES:**

April 30, 2014 & June 12, 2014

**OLD BUSINESS:**

Application #223K – Site Plan Approval with Variances  
Investors Bank – 19 Sylvan Avenue – Block 134 - Lot 2  
**Denied – Resolution**

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120 Charlotte Place Associates  
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Philip & Paula Aurbach  
201 Lyncrest Rd. – Block 714 – Lot 1  
**Approved – Resolution**

Application #232K - Height Variance  
Bong I. Jung, d/b/a Bridgestone Construction, Inc.  
60 Sherwood Avenue – Block 405 – Lot 3

**ENGLEWOOD CLIFFS PLANNING BOARD**  
**REGULAR MEETING – July 10, 2014 7:30 PM**  
10 Kahn Terrace, Englewood Cliffs, NJ

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**NEW BUSINESS:**

Approval of 2013 Planning Board Annual Report

Planning Board Subcommittee Assignments - Chairman to announce.

Application #233K - Site Plan Approval with Variances  
Bank of New Jersey  
744 Palisade Avenue – Block 512 – Lot 4,5,6

Application #236K- Classification of Subdivision as Minor  
Daniel Dooly – 529 Floyd Street - Block 616 Lot 13 &  
24 Clifton Terrace – Block 616 Lot 25

**COMMITTEE REPORTS**

Master Plan Committee  
Subdivision Committee  
Site Plan Committee

**PUBLIC COMMENTS OTHER THAN HEARING ON THIS AGENDA**

**ADJOURNMENT**

**PLANNING BOARD  
BOROUGH OF ENGLEWOOD CLIFFS**

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**IN THE MATTER OF THE APPLICATION OF 120 :  
CHARLOTTE PLACE ASSOCIATES FOR SITE PLAN : MEMORIALIZATION RESOLUTION  
APPROVAL RELATING TO LOT 1 IN BLOCK 313, : APPLICATION NO. 229K  
120 CHARLOTTE PLACE :**

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**WHEREAS, 120 CHARLOTTE PLACE ASSOCIATES, of 580 Sylvan Avenue, Suite ME, Englewood Cliffs, NJ, applied on or about February 24, 2014 to the Planning Board of the Borough of Englewood Cliffs for site plan approval to use a portion of an office building (part of ground floor and entire first floor) for a "child care center" as referenced in N.J.S.A. 40:55D-66.7a, by the "Goddard School Child Care Center"; in the "B-2 Limited Business Zone" zoning district; and**

**WHEREAS, public hearings were conducted on April 10, 2014 and May 8, 2014, upon proper notice certified by applicant's proof of service to property owners within a 200-foot radius of the subject property and proof of publication in an official newspaper of the Borough; and**

**WHEREAS, on April 10, 2014 applicant was represented by Carmine R. Alampi, Esq. and Santo T. Alampi, of Alampi & De Marrais, One University Plaza, Suite 404, Hackensack, NJ 07601; and**

**WHEREAS, interdepartmental communications and advisory reports of municipal departments and agencies were accepted as part of the record, as follows:**

- **Letter of Joseph Iannaconi, Jr., Tax Collector/Treasurer dated February 24, 2014, certifying payment of taxes through the 1<sup>st</sup> quarter, 2014; and**

- Engineering review letter from the Board's consulting engineer Bernard N. Mirandi, P.E., of Boswell McClave Engineering, 330 Philips Avenue, South Hackensack, NJ 07606, dated April 9, 2014; and

**WHEREAS**, admitted into evidence were the following exhibits:

**Exhibit A-1** – Architectural Plans prepared by Raymond E. Boos, RA, 13-01 Plaza Road, Fair Lawn, NJ 07410, dated December 16, 2013, consisting of three sheets, as follows:

- Sheet A-1 – Ground Floor Plan;
- Sheet A-2 – 1<sup>st</sup> Floor; and
- Sheet A-9 – Existing Elevation and 2<sup>nd</sup> Plan; and

**Exhibit A-2** – Colorized Sheet 2 of Plans entitled "Proposed Playground Plan" prepared by Steven Collazuol, P.E., L.S., John E. Collazuol & Associates, 1610 Center Avenue, Fort Lee, NJ 07024, dated December 19, 2013, with latest revision April 10, 2014; and

**WHEREAS**, admitted without exhibit references were the following:

- Boundary and Topographic Survey prepared by Steven Collazuol, P.E., L.S., dated November 8, 2013, with latest revision December 16, 2013;
- Construction Permit Application, undated;
- Letter of George Drimones, Office of the Fire Chief, Borough of Englewood Cliffs to Cathy Scancarella, dated March 18, 2014; and
- Letter of Raymond E. Boos, RA, to Paul Renaud, Building Sub-Code Official, Borough of Englewood Cliffs, dated January 29, 2014; and

**WHEREAS**, testimony in support of the application was given by Stephanie Chiang, owner and potential operator of the Goddard School; Raymond E. Boos, RA; Steven Collazuol, P.E., L.S.; Lee D. Klein, P.E., Klein Traffic Consulting, LLC, 156 Walker Road, West Orange, NJ 07052; and David Spatz, P.P., 60 Friend Terrace, Harrington Park, NJ 07640; and the following persons questioned the witnesses and gave testimony: Mary O' Shea, 12 Irving Avenue, and Maryanne Saraydarian and Gregory Saraydarian, 315 Arthur Avenue; and

**WHEREAS**, the Planning Board did consider the testimony and evidence presented, the following are the findings of fact and conclusions of the Board:

### THE SUBJECT PROPERTY

1. Block 313, Lot 1 (the "Site") is 23,712 square feet (sf) in area and is located at the southeasterly intersection of Charlotte Place and Rose Avenue.

2. The existing site contains a two-story commercial structure and is an active office building. The lot is located in the B-2 Limited Business Zone District. The site is accessed by two-way functioning driveways off of both Charlotte Place and Rose Avenue as well as cross-access from the adjoining property to the east (Lot 2 in Block 313).

### THE DEVELOPMENT APPLICATION

3. Applicant which will operate the site as a New Jersey licensed<sup>1</sup> child care, preschool and school facility. Applicant is proposing interior alterations to a portion of the existing office building – more particularly the ground floor and the entire first floor – to be used as a "Goddard School" child care center for children ranging in age from 6 months to 5 years. Applicant will occupy a little more than 50% of the building or 8,091 sq ft of 15,000 sq ft of building (5,000 sq ft on three floors). Also proposed are site improvements, including drainage improvements, a retaining wall and an outdoor playground area. Applicant proposes no new lighting and no signage. As to lighting, no activities are contemplated after dark. There are existing lights noted on the survey on the back of the building.

4. Although the proposed use is not permitted in the B-2 Limited Business Zoning District, this preclusion is superseded by N.J.S.A. 40:55D-66.6, which permits child care centers in nonresidential districts as follows:

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<sup>1</sup> The licensing of a child care center or day care center is controlled by N.J.S.A. 30:5B-3 et seq. The statute defines a child care center as follows:

b. "Child care center" or "center" means any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day. . . This term shall include, but shall not be limited to, day care centers, drop-in centers, nighttime centers, recreation centers sponsored and operated by a county or municipal government recreation or park department or agency, day nurseries, nursery and play schools, cooperative child centers, centers for children with special needs, centers serving sick children, infant-toddler programs, school age child care programs, employer supported centers, centers that had been licensed by the Department of Human Services prior to the enactment of the "Child Care Center Licensing Act," P.L.1983, c. 492 (C.30:5B-1 et seq.) and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth grades.

ES NUSSMAN RAPONE  
ELLIS & FARHI LLP  
ATTORNEYS-AT-LAW  
30 MOORE STREET  
SUITE 308  
HACKENSACK, N.J.  
07601-7407

Child care centers for which, upon completion, a license is required from the Department of Human Services pursuant to P.L.1983, c. 492 (C. 30:5B-1 et seq.), shall be a permitted use in all nonresidential districts of a municipality. The floor area occupied in any building or structure as a child care center shall be excluded in calculating: (1) any parking requirement otherwise applicable to that number of units or amount of floor space, as appropriate, under State or local laws or regulations adopted thereunder; and (2) the permitted density allowable for that building or structure under any applicable municipal zoning ordinance. (Bold emphasis added)

5. Applicant is requesting dimensional variances, all of which are pre-existing non-conformities, as follows:

- a. Minimum Lot Area: §30.6.1 – Schedule A requires a minimum lot area of 80,000 square feet whereas 23,712 square feet exists.
- b. Minimum Front Yard Setback: §30.6.1 Schedule A allows a minimum front yard setback of 60 ft whereas 20 ft exists.
- c. Minimum Corner Side Yard Setback: §30.6.1- Schedule A requires a 30 feet corner side yard setback whereas 20.3 ft exists.
- d. Parking Space Dimensions: 9 ft x 19 ft required (§30-10.2.a.), 9 feet by 18 feet and 9 feet by 18.5 feet exist.
- e. Aisle Width: 90 Degree Parking Aisle Width; 25 ft required (§30-10.2.b.), whereas 23 ft exists.
- f. Front Yard Parking: No Parking in Front Yard allowed (§30-10.2.f.), one existing parking space (#27 on survey/#19 on proposed plan) is located within the front yard measured from Charlotte Place. Site inspection notes that this existing space is in the front yard and is at variance from that indicated on the survey.
- g. Maximum Curb Cut: In a nonresidential district, driveways shall not exceed thirty (30) feet with a sixty (60) foot curb cut maximum for any permitted use (§30-10.2.i.). Applicant proposes to maintain the existing curb cut width of approximately 66 feet on Rose Avenue.

Considering the “inherently beneficial” statutory treatment of child care centers, the fact that all dimensional nonconformities preexist, and that this application is essentially a change of tenancy in an existing building, the Board majority had no difficulty approving the

variances.

### **SITE PLAN CONSIDERATIONS**

6. **Buffer.** In response to a question, Mr. Collazuol denied that the proposed playground was a "structure". If it were, and being less than 50 feet from residential lots south of Hollywood Avenue (or the former Hollywood Avenue right-of-way) and north of Van Nostrand Avenue, a minimum fifty (50) foot buffer on any abutting lands zoned for business uses (B-2) would be required by Code Sec. 30-7.10.b. Code Sec. 30-2 defines "Structure" as "a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land". The playground would seem to meet that definition. Planner Spatz, on the other hand, opined that the proposed 6' high PVC fence and gate satisfies the buffer requirement. "Buffer" is defined in Code Sec. 30-2 as "an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural, existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to continuously limit view of and/or sound from the site to adjacent sites or properties". The Board majority concurs. A variance is not required, as the fence satisfies the buffer requirement, notwithstanding its proximity of 25 feet from the residential lot. The Board notes parenthetically that no buffer from the adjoining residential lot presently exists.

7. **On-site parking.** As a site plan considerations, the Board focused on the adequacy of the on-site parking spaces; bearing in mind the statutory injunctive to disregard in the computation of required on-site parking the square footage dedicated to a child care center. The creation of an outdoor playground area will reduce on-site parking to a net loss of 11 spaces - from 54 spaces to 43 spaces. Stephanie Chiang, who will be the owner and operator under a franchise agreement with the Goddard School, testified that the hours of operation will be 6:30 am to 6:30 pm, Monday through Friday. Not all children will attend at the same time or at those hours. There will be a full-time and two part-time programs (mornings and afternoons). The floor plan will accommodate a maximum child care population of 126. Typically, 80% of that capacity will be reached. Ms. Chiang stated that the children are from 6 weeks of age up to 5 years. There are two doors for drop-offs and pick-ups, varying by age categories- the 3 to 5-years olds separated from the younger ages. A key witness was applicant's traffic engineer, Lee

Klein. Mr. Collazuol testified that onsite parking of 43 spaces meets the Code criterion for if the square footage of the child care center were ignored (which the statute mandates). But is the site maneuverable and safe? Mr. Klein estimated that there would be turnover in 20 available parking spaces every six minutes, or a total of 120 times every hour, which he deemed to be adequate and serviceable. These 20 spaces would presumably be available when the offices were not in use, both before and after peak hours of office use, when drop-offs and pick-ups would occur.

8. **Handicap Accessibility.** Three (3) accessible parking spaces are proposed. The accessible parking spaces must be in conformance to the ADA Guidelines inclusive of number, striping and signage. Similarly, ADA curb ramps for the Rose Avenue and Charlotte Place are required. Certifications from the Design Engineer of Record are required prior to the issuance of the Final Certificate of Occupancy.

9. **Stormwater Management.** Applicant proposes to enhance the existing on-site storm system constructing new inlets, piping and connecting into the existing inlet at the southeast corner of the property. The proposed playground, if pervious, will reduce the runoff to the back of the property. Therefore, the proposed drainage system at the rear of the property may be unnecessary. The Board defers to the Borough Engineer on this point. As a rule, no drainage from this property shall affect adjacent properties both during and subsequent to construction. Should any adjacent property be affected by runoff from this property, the Owner shall be responsible to remedy the matter at the owner's own cost. Applicant is reminded the property owners are responsible for maintenance of the stormwater management facilities at least twice annually, as well as, after every major storm event; and that a contribution for the Borough's Stormwater Capital Improvements Project will be required for any proposed impervious area greater than that of the existing conditions.

10. **Landscape Review.** Minor landscaping improvements are proposed. Applicant has agreed to meet with the Shade Tree and Environmental Commissions to satisfy their objectives. Further, a performance bond and a two-year maintenance guarantee will be referenced in a Developer's Agreement with the Borough.

**11. Miscellaneous.**

- Proposed parking spaces 1, 34 and 35 are partially in the Borough right-of-way. Applicant will need the governing body's consent to encroach. The Planning Board cannot confer that privilege.
- The dumpster originally located in parking space #14 on the survey, is proposed to be relocated off site on the adjoining property, which applicant describes as owned by a related person. Notwithstanding that representation, the Board requires, and applicant has consented to provide, a reciprocity agreement to assure functional solid waste disposal.
- Any new retaining wall in excess of four (4) ft of exposed height requires structural stability calculations and professional engineering certification that the wall was built in accordance with the plans and that it will support its design and intended loads.
- The fire suppression system is required to be enhanced to accommodate a child care center. Further, two windows are to be replaced with doors to respond to the Fire Chief's concern for secondary means of ingress and egress.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Englewood Cliffs, that the within development application be, and the same is hereby, approved, subject to the following conditions:

**CONDITIONS SPECIFIC TO THE APPLICATION**

- A. Site landscaping shall be submitted to the Environmental Commission for approval.
- B. To the extent not already referenced on the amended site plan, applicant shall comply with changes noted in the review letter of Bernard N. Mirandi, P.E., dated April 9, 2014, and shall file an amended site plan as a precondition to the issuance of building permits.
- C. Applicant shall comply with the recommendations of Mr. Mirandi as referenced in his review letter of April 9, 2014, and any engineering requirement imposed by the Borough during the construction phase as a result of site conditions.
- D. Applicant shall contribute to the Borough's dedicated fund for Stormwater Capital Improvements \$1 per square foot of the net increase in impervious area, as

determined by the consulting Engineer of the Borough.

- E. Any public improvements and plantings shall be supported by performance and maintenance guarantees to the limits allowed by the Municipal Land Use Law, to be referenced in a Developer's Agreement by and between the Borough and applicant.
- F. Applicant has agreed to meet with the Shade Tree and Environmental Commissions to satisfy their objectives. Further, a performance bond and a two-year maintenance guarantee will be referenced in a Developer's Agreement with the Borough.
- G. The dumpster originally located in parking space #14 on the survey, is proposed to be relocated off site on the adjoining property, which applicant describes as owned by a related person. Notwithstanding that representation, the Board requires, and applicant has consented to provide, a reciprocity agreement between and among the property owners to assure a functional solid waste disposal system.
- H. Any new retaining wall in excess of four (4) ft of exposed height requires structural stability calculations and professional engineering certification that the wall was built in accordance with the plans and that it will support its design and intended loads.
  - i. Proposed parking spaces 1, 34 and 35 are partially in the Borough right-of-way. Applicant will need the governing body's consent to encroach.
- J. ADA curb ramps for the Rose Avenue and Charlotte Place are required. Certifications from the Design Engineer of Record are required prior to the issuance of the Final Certificate of Occupancy.

#### **GENERAL CONDITIONS**

- K. All representations made by applicant or its agents shall be deemed conditions of this approval and any misrepresentations by applicant contrary to the representations made before the Board shall be deemed a violation of this approval.
- L. The action of the Planning Board in approving this application shall not relieve Applicant of responsibility for any damages caused by this project, nor does the

FES NUSSMAN RAPONE  
ELLIS & FARHI, LLP  
ATTORNEYS-AT-LAW  
190 MOORE STREET  
SUITE 306  
HACKENSACK, N.J.  
07601-7407

Planning Board of the Borough of Englewood Cliffs, or its reviewing professionals and agencies, accept any responsibility for design of the proposed improvement or for any damages that may be caused by this development.

**MOTION BY:** MR. CHINMAN

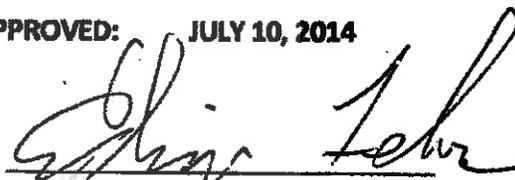
**SECONDED BY:** MS. S. KIM

**IN FAVOR:** MR. CHINMAN, MR. S. KIM, MR. FEHRE, MR. SURACE and MR. K. KIM

**OPPOSED:** MR. KILMARTIN

**DATE APPLICATION APPROVED:** MAY 8, 2014

**DATE RESOLUTION APPROVED:** JULY 10, 2014



**EDWIN FEHRE, CHAIRMAN  
PLANNING BOARD**

**ATTEST:**



**CATHY SCANCARELLA  
PLANNING BOARD SECRETARY**

**PLANNING BOARD**

**BOROUGH OF ENGLEWOOD CLIFFS**

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**IN THE MATTER OF THE APPLICATION OF PHILIP :  
AURBACH AND PAULA AURBACH FOR VARIANCE : MEMORIALIZATION RESOLUTION  
RELIEF RELATING TO LOT 1 IN BLOCK 714, : APPLICATION NO. 234K  
201 LYNCREST ROAD :**

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**WHEREAS, PHILIP AURBACH and PAULA AURBACH of 267 Devon Road, Tenafly, NJ 07670, applied on or about May 5, 2014 to the Planning Board of the Borough of Englewood Cliffs for variance relief to construct a single-family residence; in the "R-A" Single Family Residential zoning district; and**

**WHEREAS, a public hearing was conducted on June 12, 2014, upon proper notice certified by applicant's proof of service to property owners within a 200-foot radius of the subject property and proof of publication in an official newspaper of the Borough; and**

**WHEREAS, applicant was represented by Thomas J. Barrett, Esq., 912 Kinderkamack Road, Suite 1, River Edge, NJ 07661 and Severio V. Cereste, Esq., 1624 Center Avenue, P.O. Box 845, Fort Lee, NJ 07024; and**

**WHEREAS, interdepartmental communications and advisory reports of municipal departments and agencies were accepted as part of the record, as follows:**

- **Certification of Taxes Paid dated May 5, 2014 by Severio V. Cereste, Esq., certifying payment of taxes through the 2<sup>nd</sup> quarter, 2014; and**

ES NUSSMAN RAPONE  
ELLIS & FARHI, LLP  
ATTORNEYS-AT-LAW  
90 MOORE STREET  
SUITE 306  
HACKENSACK, N.J.  
07601-7407

- Engineering review letter from the Board's consulting engineer Bernard N. Mirandi, P.E., of Boswell McClave Engineering, 330 Philips Avenue, South Hackensack, NJ 07606 dated May 29, 2014; and
- Letter of Denial by Paul Renaud, Zoning Officer, dated April 30, 2014, for reasons stated therein;

**WHEREAS**, admitted into evidence were the following exhibits:

**Exhibit A-1** – Colorized Site Plan prepared by Mark S. Martins, P.E. & L.S., Mark Martins Engineering, 95 Walnut Street, Suite 201, Norwood, NJ 07646, dated November 19, 2014 with latest revision April 21, 2014; and

**Exhibit A-2** – Colorized photograph of the subject property; and

**WHEREAS**, admitted without exhibit references were the following:

- Soil Erosion Plan / Details prepared by Mark S. Martins, P.E. & L.S., dated November 19, 2014 with latest revision April 21, 2014;
- Boundary and Topographic Survey prepared by Mark S. Martins, P.E. & L.S., dated March 18, 2013;
- Architectural Plans prepared by Robert E. Zampolin, A.I.A., Zampolin & Associates, 187 Fairview Avenue, Westwood, NJ 07675, dated April 21, 2014, consisting of six sheets, as follows:
  - Sheet A1 – Basement Plan;
  - Sheet A2 – First Floor Plan;
  - Sheet A3 – Second Floor Plan;
  - Sheet A4 – Roof Plan;
  - Sheet A5 – Elevations; and
  - Sheet A1 – Elevations; and
- Four photographs of the subject property; and

**WHEREAS**, testimony in support of the application was given by Mark S. Martins, P.E. & L.S.;

Robert E. Zampolin, A.I.A.; and David Spatz, P.P., 60 Friend Terrace, Harrington Park, NJ 07640;

and the following persons either questioned the witnesses or testified in opposition to the application:

Joseph and Gloria Fleischman, 209 Lyncrest Road; Mary O' Shea, 12 Irving Avenue and Carol

McMorrow, 2 Ridge Road; and

WHEREAS, the Planning Board did consider the testimony and evidence presented, the following are the findings of fact and conclusions of the Board:

1. Block 714, Lot 1 (the "Site") is a corner lot located on the northwesterly corner of the intersection of Lyncrest Road and Summit Street. The drawings state that the existing building has been razed, and the existing onsite pavement, walls and structures are to be removed. Applicant seeks to construct a 2½ story single-family dwelling with a circular paver driveway located in the corner yard along Lyncrest Road, a paver driveway located in the rear yard and a raised terrace with a patio underneath located in the side yard. Also proposed is a covered (entry) porch located in the corner yard along Lyncrest Road, 3 ft. high Keystone retaining walls along the western and northern property lines, a set of downward steps from the side yard to the paver driveway on the westerly side of the dwelling and onsite drainage improvements.
2. The property is located, in the R-A Residential Single Family Zoning District. Single-Family dwellings are permitted uses. Since the Site is a corner lot, it will have a front yard, rear yard, corner side yard and side yard. As per Code Sec. 30-2 Definitions ("Lot, frontage"), the narrower side of the lot abutting a street, regardless of the location of the principal entrance of the building shall be considered the front yard. Therefore, Summit Street shall be considered the front yard, the westerly side of the property is to be considered the rear yard, and the Lyncrest Road side of the property is to be considered the corner side yard. Further, the northerly side of the property opposite Lyncrest Road is to be considered the side yard.
3. According to the Construction/Zoning Official's Letter of Denial, the following variances are required:
  - **Maximum Building Height:** In residential zones building height shall be no higher than thirty (30) feet (measured by taking the four (4) corner elevations and the four (4) midpoint elevations and dividing them by eight (8) by utilizing the house box) of the existing grade or the finished grade, whichever is greater. Further and in any event, the height as measured from the mean curb level to the highest point of the building shall not exceed thirty-two (32) feet, exclusive of

chimneys. Accordingly, the proposed building height requires the following variances:

- 33.96 feet measured of the mean curb level versus the maximum allowable 32 feet. A 1.96 ft building height variance is required.
- 32.91 ft. measured from the lower of the average existing or finished grade versus the maximum allowable 30 feet. A 2.91 ft building height variance is required.
- **Minimum Front Yard:** Minimum front yard setback required is 30 ft. Applicant is proposing a 15 ft front yard setback.
- **Flat Roof:** Section 30-7.7.c. states:

Flat roofs in any dwelling zones are not permitted over the main portion of the roof structure; additions or extensions having flat roofs are permitted if the roof area of same does not exceed forty (40%) percent of the entire area of the building. The standard to be used to determine a flat roof shall be a slope of three and one-half (3 ½) inches per foot; anything less shall be considered a flat roof.

The Architectural Roof Plan (Drawing No. A-4) proposes the center area of the main roof to have a slope of 0.25:12.

4. The Board majority concurs with applicant's planning expert David Spatz that the height variances are the consequence of the property grade which slopes in an east to west direction from Summit Street to Lyncrest Road – a grade differential of approximately five (5) feet. Such a variant is recognized as a topographical "hardship", consistent with N.J.S.A. 40:55D-70(c)(1).
5. The Board minority suggests that the excess height is applicant's design choice of constructing a subterranean garage and, as such, amounts to a self-created hardship at best. However, the (c)(1) applicant need only demonstrate that the property's unique characteristics inhibit "the extent" to which the property can be used. With further regard to the extent of use, a variance granted to construct a typical structure of the sort desired should not be denied because something smaller or peculiarly shaped will minimize the nonconformity. Thus in Lang v. Zoning Board of Adjustment, a 1999 NJ Supreme Court decision, which

involved construction of a swimming pool, the Court indicated that the size of the pool sought was "fairly typical" for the area and therefore the Appellate Division had erred in requiring that it be smaller to minimize the variances needed. In a given case, the dimensions of a proposed structure may be so unusual or atypical that the applicant will be unable to demonstrate to the board that it is the unique condition of the property that causes the need for a variance. But here, as concluded by the Board majority, this home is not atypical, either for the neighborhood or Englewood Cliffs generally.

6. As to the setback deficiencies abutting Summit Street (15 ft and 16 ft instead of 30 ft), they are the result of architectural features at the corners of the home which are minimized by the design of the corners. See Exhibit A-2 rendering. The size of the lot also minimizes any discordance with street frontages, plus the fact that Summit Street is a functional side yard, with the entry to the house abutting Lyncrest Road. As to the easterly circular driveway abutting Lyncrest Road, Mr. Mirandi comments that it appears to be too close to the intersection and he recommends that the Police Department should review and comment. It will be made a condition of this approval, as will all of the Engineer's comments.
7. As set forth above, the Architectural Roof Plan (Drawing No. A-4) proposes the center area of the main roof to have a slope of 0.25:12, in violation of Code Sec. 30-7.7.c. However, the negative aesthetic of a flat roof is masked in the structure's design. It is not observable, and thus the intent and purpose of the prohibition is not violated.
8. As to the negative criteria of the statute generally, the home is not overlarge as it meets the coverage requirements for the zone. Homes in the neighborhood are of similar scale. To the extent that neighbors complain about the pitch or slope of Lyncrest Road being improperly designed or constructed so as to allow stormwater to flow down driveways and into homes, this would not disqualify an existing homesite being improved with a new home. Further, the variances here are not directly related to stormwater issues (such as excessive lot coverage).

We note parenthetically that, but for neighbors calling stormwater issues to the Board's attention, stormwater management is a site plan consideration and single-family homes are exempt from site plan review under the Municipal Land Use Law.

9. With or without site plan review, no drainage from this property shall affect adjacent properties both during and subsequent to construction. Should any adjacent property be affected by runoff from this property, the owner is responsible to remedy the matter at the owner's own cost. Further, the plan calls for seepage pits. Applicant shall be required to submit drainage calculations in support of the proposed stormwater management improvements. As requested by the Borough Engineer, a soil log and percolation test shall be performed at the exact locations of the proposed seepage pits to substantiate the soils acceptance of such a system and to determine the elevation of groundwater and rock; and the installation of the stormwater management facility shall not be allowed to commence until this office has received and reviewed the aforementioned tests for acceptance. A note to this effect should be indicated on a revised plan.
10. In addition, applicant is proposing to connect the sump pump discharge pipe to the existing catch basin located at the intersection of Lyncrest Road and Summit Road. As requested by the Borough Engineer, applicant shall review this matter with the Superintendent of Public Works prior to the commencement of construction. A note to this effect shall be annotated on a revised drawing. Connection into the municipal storm system may require the developer to upgrade this inlet structure to current DPW and NJDEP standards. Furthermore, the applicant shall prepare a hold harmless agreement with the Borough in regard to the sump pump connection to the catch basin to the satisfaction of the Borough Attorney.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Englewood Cliffs, that the within development application be, and the same is hereby, approved, subject to the following conditions:

**CONDITIONS SPECIFIC TO THE APPLICATION**

A. Applicant shall satisfy all inquiries and recommendations posed by the Borough Engineer in his review letter of May 29, 2014, and as site conditions warrant during construction.

**GENERAL CONDITIONS**

B. All representations made by applicant or its agents shall be deemed conditions of this approval and any misrepresentations by applicant contrary to the representations made before the Board shall be deemed a violation of this approval.

C. The action of the Planning Board in approving this application shall not relieve Applicant of responsibility for any damages caused by this project, nor does the Planning Board of the Borough of Englewood Cliffs, or its reviewing professionals and agencies, accept any responsibility for design of the proposed improvement or for any damages that may be caused by this development.

**MOTION BY: MR. SURACE**

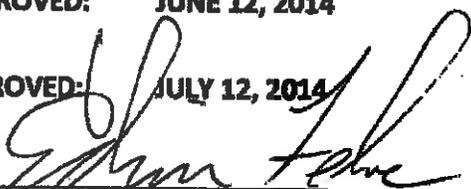
**SECONDED BY: MS. TROVATO**

**IN FAVOR: MR. SURACE, MR. TROVATO, MR. FEHRE, MR. CHINMAN and MR. K. KIM**

**OPPOSED: MR. KILMARTIN, MR. S. KIM and MR. AVERSA**

**DATE APPLICATION APPROVED: JUNE 12, 2014**

**DATE RESOLUTION APPROVED: JULY 12, 2014**

  
**EDWIN FEHRE, CHAIRMAN  
PLANNING BOARD**

ELLS & FARHI, LLP  
ATTORNEYS-AT-LAW  
90 MOORE STREET  
SUITE 306  
HACKENSACK, N.J.  
07601-7407

**ATTEST:**



**CATHY SCANCARELLA**  
**PLANNING BOARD SECRETARY**

ES NUSSMAN RAPONE  
ELLIS & FARHI, LLP  
ATTORNEYS-AT-LAW  
90 MOORE STREET  
SUITE 305  
HACKENSACK, N.J.  
07601-7407

**2013 Annual Report  
 Tinglewood Cliffs Planning Board  
 Applications for Development**

Lot	Application Type	Board Decision	Stormwater Contribution	Bldg. Permit Issued	CO or CA Issued
18	Sign Variance for 2 Free Standing Signs in B-2 Zone. Chap. XXX-Zoning - Chap. XIX Signs, Billboards & Outdoor Advertising Sec. 19-16.b	Approved	None	Yes	CA
7	Site Plan Approval to add additional on-site parking in the rear of the building in B-2 zone.	Approved	\$4,802.00 Paid 4/30/13	Yes	CA
20.01	Site Plan Approval, together with Ancillary	Approved	\$24,147.00 Paid 3/12/14	Yes	
3	Variances and Consolidation of 2 lots. Use Variance to construct a new 2 story structure and associated site improvements to accommodate a proposed child care facility, in the B-3 Special Retail Zone Height 34.7' due to slope in grade.				
1	Site Plan Approval, together with Ancillary Variances. Use Variance to construct a new 2 story structure and associated site improvements to accommodate a proposed child care facility, in the B-3 Special Retail Zone	Denied			
4	Site Plan Approval, together with Ancillary Variances. Dimension of parking stalls & aisle width in connection to renovation of existing building to operate a full service retail bankin facility in the B-4 Business Zone.	Approved		No	
4.02	Site Plan Approval with "C" & "D" Variances Excessive height in feet & stories (35' height)	Approved	N/A	No	
6.1	Site Plan Approval with "C" & "D" Variances Excessive height in feet & stories (35' height)	Approved	N/A	Yes	
4	Site Plan Approval and Variances Height, Side Yard, & Circular Driveway Flat roof variance (32.79' height)	Approved	N/A	No	

Good evening ladies and gentlemen of the Planning Board of Englewood Cliffs, residents of Englewood Cliffs, and concerned members of the public in the audience.

As you are aware, my law firm and DK min Esq. represent LG Electronics in connection with the variance for its new headquarters site located at 111 Sylvan Ave. We have represented LG for over four years, throughout the entire approval process before the borough and in the New Jersey courts.

LG has not been involved in the ordinance or master plan discussions. But I am here tonight because the outcome of local planning decisions made by this esteemed Planning Board do potentially affect my client and other businesses in the Borough.

In light of the passion on both sides of the Palisades-LG matter, I hope that level-headed analysis and leadership will prevail as this board reviews its options in the months ahead.

I am not interested in political grandstanding, rather to reiterate the economic and community benefits that LG's project will provide to the State of New Jersey, Bergen County, and the Borough of Englewood Cliffs now and in the years to come.

LG followed all of the municipal and legal processes and requirements in obtaining full and final variance approval. These requirements were created by New Jersey legislature through the Municipal Land Use Law, the Borough Council of Englewood Cliffs, and this Planning Board.

LG appeared with multiple witnesses at 6 public hearings from May to November 2011. Multiple public notices were provided in a transparent process that has been upheld by the Superior Court Law Division. LG presented its project, allowed full and fair public participation, and then allowed the Zoning Board of Adjustment to evaluate the project on its merits.

When this project moves forward and is built, the Borough of Englewood Cliffs will be the biggest winner.

In addition to jobs and tax revenues, Englewood Cliffs will have a landmark building with numerous environmental, educational and economic benefits. LG aspires for LEED Platinum certification and plans include: restoring six acres to natural conditions on the site, providing expansive buffers to the residents of the area, maintaining six precious wetlands and improving drainage and storm water issues that have plagued this area for years. The sea of asphalt and current parking area will be replaced with an expansive berm, and over 700 mature new trees will be planted on site. The site's overall green area, including green roofs, will be increased by 50 percent.

The economic benefits to Englewood Cliffs and the surrounding communities are enormous:

1. This project will be built with a \$300 million investment (with NO government incentives), and creating approximately 2,200 construction jobs over the next 3 to 4 years.
2. The tax ratable for Englewood Cliffs and Bergen County will be estimated initially at \$2.5 million-\$3 million per year with possible increases thereafter. This will help lower residential property taxes and improve schools and municipal budgets to benefit town residents.
3. The State will receive approximately \$500 million in economic impact over the next 20 years, as confirmed by the New Jersey Economic Development Authority;
4. LG will retain 500 jobs in this area and increase that number to approximately 1,200 by consolidating multiple divisions throughout the United States;
5. Traffic and congestion issues are minimal as the area supported similar numbers of workers at this site in the Prentice-Hall and Citigroup days when over a thousand workers were at the site. The area will be improved by reducing 12 entrances to 5 and a new traffic pattern will be in place as approved by the State Department of Transportation and Bergen County Planning Board;

6. Approximately \$150 million will be spent by LG in the local economy in the form of salaries and other operation costs annually in an Englewood Cliffs and the surrounding communities;
7. Real estate values in the area will undoubtedly increase and local businesses will feel the enormous economic benefits of this project for years to come.

However, I fear that if the wrong approach is followed by the town, this property will remain undeveloped, and the economic benefits I have talked about will not be realized.

Very few companies are in a position to develop this large lot into a landmark building in these economic times, and I doubt that LG's recent history will attract large new corporations to invest in Englewood Cliffs.

If LG leaves, Englewood Cliffs and the local community will be squandering an opportunity to keep a good corporate citizen in the area. Even if another company was found to take over the site, it would take years for anyone to be able to develop and build on this empty lot, further delaying the economic benefits to our town.

As a representative to the largest lot of the B-2 zone, I ask that this Board utilize the utmost care and wisdom to evaluate your decisions in a most prudent fashion.

Your decisions may affect the possibility of a fair and reasonable compromise solution. Your decisions may affect whether LG decides to remain in Englewood Cliffs. Your decisions may impact the long-term economic vitality of the hometown we all love.

Thank you for your time and consideration.