



**Neptune Township ~ Zoning Board of Adjustment
Regular Meeting Agenda
Wednesday September 4, 2013 - 7:30 P.M.
Township Meeting Room 2nd Floor**

The regular scheduled meeting of the Neptune Township Zoning Board of Adjustment which has been duly constituted and advertised according to law is now called to order:

Fire exits are clearly marked at the side and rear of this room, if alerted of a fire, please move in a calm and orderly manner to the nearest smoke free exit.

At this time, I would ask everyone to please silence all cell phones and other paging devices, as they are distracting to others.

It is the policy of the Zoning Board of Adjustment to end all matters no later than 11 p.m. Toward the end of the meeting it will be announced that no new applications will begin after 10:00 p.m. nor will any new witnesses or testimony begin after 10:30 p.m.

The following procedure will be followed:

It is the Board's policy to adhere to the following procedure; after testimony by the applicant's attorney or his professional, questions will follow by the members of the Zoning Board; at the direction of the Chair the public portion will be opened. Each individual from the public will be sworn in; give their name and address; and will be have one five [5] minute session to speak. We ask that questions are directed to the Chair, and not repeated. Time is not transferable. At the completion of the public portion, members of the Zoning Board will make final comments prior to offering a resolution to either adopt or deny the proposal before them.

I. Roll Call and Flag salute :

Mr. Roger Eichenour, Chairperson	Ms. Dianna Harris (Alternate # 3)
Ms. Barbara Bascom	Mr. Thomas Healy
Mr. Paul Dunlap, 2 nd Vice Chairperson	Mr. Clifford Johnson (Alternate # 4)
David Fernicola (Alternate # 2)	Mr. Joe Sears
Mr. William Frantz	Ms. Cynthia Suarez (Alternate # 1)
Mr. James Gilligan, 1 st Vice Chairperson	

Also Present: Monica C. Kowalski, Attorney to the Board
Matt Shafai, Board Engineer
Jennifer Beahm, Board Planner

II. Correspondence:

- a. Legal notification from Aqua-Terra Environmental Inc. dated August 12, 2013, received August 23, 2013, with regard to Block 562, Lot 1 (Shark River Yacht Club c/o Seth Frankel, Seaview Circle North) applying to the NJDEP for a Dredging Permit to remove excess sediments.

III. Resolutions to be memorialized:

- a. **ZB13/06 (Partial Approval)** – Jersey Shore University Hospital – Block 3000, Lots 1.01, 1.02, & 8 - 1945 Corlies Ave. & 81 Davis Ave. - Applicant proposing to install six wall mounted signs and two freestanding signs across 3 separate lots. *Motion was offered to approve the application as discussed withholding the Davis Avenue portion of the project.*
Those eligible to vote: P. Dunlap, J. Gilligan, T. Healy, C. Suarez, D. Harris, C. Johnson, R. Eichenour.
- b. **ZB13/04 (Approval)** – James Hayes – Block 171, Lot 79 – 1225 10th Avenue – Applicant requested a Use variance to permit two (2) residential apartment units (one upstairs and one downstairs) within the existing building onsite. *Motion was offered to approve the application as discussed.*
Those eligible to vote: P. Dunlap, W. Frantz, J. Gilligan, T. Healy, J. Sears, C. Johnson, R. Eichenour.
- c. **ZB13/08 (Approval)** – Macedonia Baptist Church – Applicant is requesting a Use Variance to permit the utilization of a portion of an existing building as a house of worship. Also seeking a waiver from the submission of a formal site plan over and above the details shown on the submitted Use Variance Site Plan. *Motion was offered to approve the application as discussed.*
Those eligible to vote: P. Dunlap, W. Frantz, J. Gilligan, T. Healy, J. Sears, C. Johnson, R. Eichenour.

IV. Applications under consideration for this evening:

****PARTIALLY HEARD ON 10/17/12, CARRIED FROM 6/5/13 – NO FURTHER NOTICE REQUIRED FOR THIS MEETING****

- a. **ZB12/04** – Block 7000 Lot 23 submitted by Ronald Troppoli, Esq. for Irma Rojas of 27 Hillview Drive - Applicant is seeking relief for bulk variances and waiver relief in order to keep existing site improvements at the site. Please refer to the specific variances listed by Mr. Troppoli.

****NEW****

- b. **ZB13/05** – Block 1501, Lot 1 - #3705 Highway 33 (Jumping Brook Shopping Center) - submitted by Dollar Tree - Applicant is proposing 2 wall-mounted signs that exceed maximum number of signs permitted as well as the square footages permitted. Applicant is represented by Gary N. Smith, Esq.

****NEW****

- c. **ZB13/09** – Block 282, Lots 1 thru 5 - #1800 Highway 33 - submitted by Atifaq Corporation (Gas Plus Speedy Mart) – Applicant is proposing to convert existing building onsite into a convenience store. Applicant is represented by Jennifer S. Krimko, Esq.

V. Adjournment:

- a. Next scheduled hearing will be a Special Meeting for Hovsons, Inc. on September 18, 2013 at 7:30 PM, which will be held at the Summerfield Elementary School located at 1 Summerfield Lane, Neptune Township.
- b. With no further business before the Board a motion to adjourn was offered by _____ to be moved and seconded by _____, meeting closed at _____ PM.

Aqua-Terra

Environmental Inc.

August 12, 2013

Re: Lot 1 Block 562
Seaview Circle North
Neptune Twp.
Monmouth Co, N.J.
Project No: 02-450

Dear Concerned

This letter is to provide legal notification that Shark River Yacht Club c/o Seth Frankel, Seaview Circle North, Neptune, N.J. is applying to the N.J. Dept. of Environmental Protection, Land Use Regulation for a Dredging Permit

A Maintenance Dredging Permit to remove excess sediments in the above mentioned marina on a natural waterway.

The complete Maintenance Dredging Permit application can be reviewed by appointment at the Land Use Regulation Program at the address listed below or the Neptune Twp. Clerks office. The N.J. Dept. of Environmental Protection welcomes comments and any information that you may provide concerning the proposed reconstruction on the above mentioned referenced parcel. Written comments should be submitted to the department with a copy of this letter within fifteen (15) days of receiving this letter to:

N.J. Dept. of Environmental Protection
Division of Environmental Regulation
Site Remediation Program
Office of Dredging & Sediment Technology
P.O. Box 028
Trenton, N.J. 08625-0028
Attn: Mr. Jeff Thein, Project Manager

If you have any questions regarding this application please contact Jack Pryor, at 732-280-8719.

Sincerely Yours,

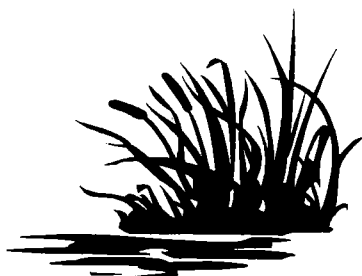

Jack Pryor

Principal Environmental Consultant

RECEIVED
Neptune Township

AUG 23 13

LAND USE
DEPARTMENT



1802 1/2 Laurel Terrace Lake Como, N.J. 07719
Phone 732-280-8719 Fax 732-280-8720
E-Mail: JohnJPryor@AOL.Com



APPLICANT: Jersey Shore University Medical Center
APPLICATION NUMBER: ZB13/06
BLOCK: 3000
LOTS: 1.01, 1.02 & 8
ADDRESS: 1945 Corlies Avenue & 81 Davies Avenue
ATTORNEY FOR APPLICANT: Peter S. Falvo, Jr., Esq.
RESOLUTION NUMBER: 13-10



**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF NEPTUNE
FOR SIGN VARIANCES**

MR. JAMES GILLIGAN, offered the following Resolution moved and seconded by **MR. THOMAS HEALY**;

WHEREAS, **JERSEY SHORE UNIVERSITY MEDICAL CENTER**, hereinafter referred to as the "Applicant," by and through their attorney, Peter S. Falvo, Jr., Esq., filed an application with the Zoning Board of Adjustment of the Township of Neptune, (hereinafter referred to as the "Board") seeking the following relief:

The Applicant will appear before the Board for approval of the following:

1. Project Description

The subject properties total approximately 28.2 acres and are currently utilized as a hospital/medical center use with associated parking areas and having access along NJ State Highway Route 33.

The Applicant proposes to install six (6) building mounted signs along the existing hospital building and two (2) freestanding signs as follows:

- Sign "A" is to be 29.7 sf in area (1.06' x 28') along the left side wall of the emergency room.
- Sign "B" is to be 38.5 sf (1.23' x 31.2') along the right side of the emergency room.
- Sign "C" is to be 37.2 sf (1.3' x 28') along the east wall facing Route 33 at the Amdur Ambulatory Care Center.
- Sign "D" is to be 27.5 sf (1' X 21') along west wall at the Amdur Ambulatory Care Center entrance. This Applicant should verify the provided sign area and/or dimensions.
- Sign "E" is to be 37.2 sf (1.3' x 28') along east wall at back entrance to the Amdur Ambulatory Care Center.
- Sign "G" is to be 160 sf (2.5' x 64') along the center hospital building facing Route 33.
- Sign "I" is to be 85.4 sf (6.8' x 12.5') along Route 33 at the west side of the access drive to the hospital building.
- Sign "J" is to be 75 sf (8' x 9.3') within the curb island along the front of the 81 Davis Avenue Medical Building.

The Applicant indicates that Signs D and E are to replace existing wall signs and Signs B and G are in addition to existing wall signs to remain, also, Sign J is to replace an existing freestanding sign. Signs A, B, C, G and I are to be internally illuminated.

2. The Applicant has requested variance for the following:

- a) Section 416.07A1 – Where a lot has multiple street frontages, two (2) freestanding signs, as specified herein, shall be permitted; two (2) freestanding signs exist onsite and an additional freestanding sign, specifically sign “T” is proposed.
- b) Section 416.07A4 – All freestanding signs shall be placed within landscaped areas; no landscaping is proposed around Signs I and J.
- c) Section 416.07B1(b) – for single tenant structures, a maximum wall mounting height of 15 ft. is permitted; Sign G is proposed with a mounting height greater than 15 ft.
- d) Section 416.07B1© - For single tenant structures, one (1) wall mounted sign is permitted; the Applicant proposes to erect six (6) wall mounted signs in addition to two (2) existing wall signs.
- e) Section 416.07B1(d) – For single tenant structures, a maximum horizontal sign dimension of 12 ft is permitted; Sign A (28 ft), B (31.3 ft), C (28 ft), D (21 ft), E (28 ft) and G (64 ft) all exceed 15 ft permitted.

The Applicant has not requested any design waivers with the application and none appear necessary.

WHEREAS, the application pertains to premises known and designated as Block 3000, Lots 1.01, 1.02 & 8, on the Tax Map of the Township of Neptune, which premises are located at 1945 Corlies Avenue & 81 Davies Avenue;

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS, the Board held a public hearing with regard to the referenced application on the following date: JULY 3, 2013

WHEREAS, the following items were entered as Exhibits at the hearing:

1. EXHIBIT A1: Sign Package Submitted with Application

WHEREAS, The Board listened to the Testimony of the following:

1. ROBERT ADAMS: - Vice President of Operations, JSUMC
2. ROBERT BOSCH: SIGN TESTIMONY
3. HENRY J. NEY, PE, TRAFFIC ENGINEER
4. PAUL PHILLIPS, PROFESSIONAL PLANNER

WHEREAS, The Board took Questions from the following members of the Public as to the witnesses presented:

1. NONE.

WHEREAS, The Board took Public Commentary on the Application upon conclusion of the witness testimony as follows:

1. NONE

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. The new signs for the Hospital are designed to enhance their brand image.
2. The design of the signs vary from illuminated signs to non-illuminated signs.
3. The K Hovnanian children's hospital is a LIT monument sign.
4. The monument sign would also be landscaped to match larger sign.
5. Davis sign must be raised to accommodate landscaping because the sign as presented is at eye level.
6. The Board requests traffic directional arrows on certain ground mounted signs.
7. The Board discusses their requests to make sure the signs on Davis are coordinated and linked with the building so there is no confusion.
8. If future signage does not comport to ordinance, JSUMC must return to the Board as the current ordinance is designed for an older, smaller facility.
9. JSUMC has undergone major massive renovations and for this facility, relief is required because only one wall mounted sign would be allowed under current ordinance.

WHEREAS, In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Neptune that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- a. Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has demonstrated that the purposes of the Municipal Land Use Law and the Land Use Ordinances of the Township of Neptune would be advanced by the deviation from the zoning ordinance requirements at issue, and further, that the benefits of any deviation would substantially outweigh any detriment resulting from a grant of the relief requested in the within application.
- b. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Township of Neptune.
- c. The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Neptune that the following be and are hereby GRANTED:

The Applicant proposes to install six (6) building mounted signs along the existing hospital building and two (2) freestanding signs and the Board modifies this request by granting permission as follows:

- Sign “A” is to be 29.7 sf in area (1.06’ x 28’) along the left side wall of the emergency room.
- Sign “B” is to be 38.5 sf (1.23’ x 31.2’) along the right side of the emergency room.
- Sign “C” is to be 37.2 sf (1.3’ x 28’) along the east wall facing Route 33 at the Amdur Ambulatory Care Center.
- Sign “D” is to be 27.5 sf (1’ X 21’) along west wall at the Amdur Ambulatory Care Center entrance. This Applicant should verify the provided sign area and/or dimensions.
- Sign “E” is to be 37.2 sf (1.3’ x 28’) along east wall at back entrance to the Amdur Ambulatory Care Center.
- Sign “G” is to be 160 sf (2.5’ x 64’) along the center hospital building facing Route 33.
- Sign “I” is to be 85.4 sf (6.8’ x 12.5’) along Route 33 at the west side of the access drive to the hospital building.

The Applicant indicates that Signs D and E are to replace existing wall signs and Signs B and G are in addition to existing wall signs to remain. Signs A, B, C, G and I are to be internally illuminated.

The Board notes that for the most part, the application is accepted as written but for the proposed Route 33 sign, which has to be placed on the site in agreement with the Township and/ or Board Engineers and the proposed Davis Avenue sign is accepted for variance purposes but requires revision of design, which design shall be submitted for approval before the Board at a future date.

The Applicant has requested variances for the following which are granted:

- a. Section 416.07A1 – Where a lot has multiple street frontages, two (2) freestanding signs, as specified herein, shall be permitted; two (2) freestanding signs exist onsite and an additional freestanding sign, specifically sign “I” is proposed.
- b. Section 416.07A4 – All freestanding signs shall be placed within landscaped areas; no landscaping is proposed around Signs I and J (landscaping around J is reserved for subsequent presentation).
- c. Section 416.07B1(b) – for single tenant structures, a maximum wall mounting height of 15 ft. is permitted; Sign G is proposed with a mounting height greater than 15 ft.
- d. Section 416.07B1© - For single tenant structures, one (1) wall mounted sign is permitted; the Applicant proposes to erect six (6) wall mounted signs in addition to two (2) existing wall signs.
- e. Section 416.07B1(d) – For single tenant structures, a maximum horizontal sign dimension of 12 ft is permitted; Sign A (28 ft), B (31.3 ft), C (28 ft), D (21 ft), E (28 ft) and G (64 ft) all exceed 15 ft permitted.

Variances suggested by the Board Planner are also included as granted:

- a. Section 416.07B1(a) – for single tenant structure wall mounted signs, the lesser of 48 sf or 1.2 sf for each linear foot of wall face that the sign is mounted on is permitted; Sign G is proposed at 160.01 sf in area
- b. Section 416.07B3(a) – Business uses that have a side or rear building façade fronting on a parking lot or secondary street frontage may have a secondary wall-mounted sign not to exceed 50% of the area of the primary building sign; the Applicant proposes to erect six (6) wall mounted signs and two (2) additional wall-mounted signs appear to ext along the various hospital building facades.
- c. The Applicant has not requested any design waivers with the application and none appear necessary.

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

1. Based upon Board Planner (CME Associates Review) April 26, 2013, the plans should be revised as follows:
 - a. The location of Signs "G" and "J" (M.1.1) should be indicated on the Site Ariel Photo.
 - b. Add Sign "D" to detail sheet CL.22 and the elevation for Sign "C" on same should also note Sign "E"
 - c. Verify the horizontal dimension for Sign "B" between the sign details and indicate horizontal dimension for Sign "G" on the detail sheet (scale 1:10)
2. The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. ALL PLANS MUST BE APPROVED BY TOWNSHIP ENGINEER AND CODE AND CONSTRUCTION DEPARTMENTS FOR THE ISSUANCE OF PERMITS;
 - b. MONMOUTH COUNTY PLANNING BOARD;
 - c. FIRE MARSHALL;
 - d. BOARD OF HEALTH;
 - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
 - f. BOARD OF ADJUSTMENT PLANNER (per Report attached hereto and made a part hereof)
 - g. BOARD OF ADJUSTMENT ENGINEER (per Report attached hereto and made a part hereof);
 - h. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
 - i. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING.
 - j. FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARD'S PROFESSIONALS.
 - k. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.
 - l. ANY AND ALL COAH REQUIREMENTS TO BE SATISFIED BY APPROPRIATE CONTRIBUTIONS AS REQUIRED AND DETERMINED BY THE TOWNSHIP ENGINEER.
3. SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

ROLL CALL VOTE:

THOSE IN FAVOR: **P. Dunlap, J. Gilligan, T. Healy, C. Suarez, D. Harris, C. Johnson, R. Eichenour**

THOSE OPPOSED: **NONE.**

ABSENT: **B. Bascom, D. Fernicola, W. Frantz, J. Sears**

ABSTAINED: **NONE.**

MEMORIALIZATION VOTE:

THOSE IN FAVOR:

THOSE OPPOSED:

ABSENT:

ABSTAINED:

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Neptune at its meeting on **July 3, 2013** and memorialized at the meeting held on **September 4, 2013**.

Date: **September 4, 2013**

Kristie Armour, Administrative Officer of the
Zoning Board of Adjustment
Township of Neptune

APPLICANT: JAMES HAYES
APPLICATION NUMBER: ZB13/04
BLOCK: 171
LOT: 79
ADDRESS: 1225 Tenth Avenue and Ridge Avenue
ATTORNEY FOR APPLICANT: Kerry E. Higgins, Esq.
RESOLUTION NUMBER: 13-11



**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF NEPTUNE
FOR A USE VARIANCE (TWO RESIDENTIAL APARTMENT UNITS)**

MR. JAMES GILL IGAN, offered the following Resolution moved and seconded by **MR. PAUL DUNLAP**;

WHEREAS, **JAMES HAYES**, hereinafter referred to as the “applicant” filed an application with the Zoning Board of Adjustment of the Township of Neptune, (hereinafter referred to as the “Board”) seeking the following relief:

A USE VARIANCE TO PERMIT TWO (2) RESIDENTIAL APARTMENT UNITS, ONE UPSTAIRS AND ONE DOWNSTAIRS, AND ANY ADDITIONAL VARIANCES DEEMED NECESSARY IS ALLOWED. THE CURRENT ZONING DETERMINATION CONSISTED OF A USE VARIANCE FOR ONE RESIDENTIAL USE AND ONE COMMERCIAL USE ON THE FIRST FLOOR FROM 1972.

Variance/Waiver Compliance:

Other than the Use variance, the Applicant has not requested any variances and/or design waivers with this application and none appear necessary.

WHEREAS, the following existing condition nonconformities would appear to remain pertinent to the site:

1. **Section 403.04E (schedule B-1)** – Maximum density, 8.7 dwelling units per acre is permitted; 17.2 dwelling units per acre are provided.
2. **Section 403.04E (Schedule B-1)** – Minimum lot depth, 100 ft is required; 75 feet +/- is provided.
3. **Section 403.04E (Schedule B-1)** – Minimum front yard setback, 20 feet is required; 0.4 feet is provided along Ridge Avenue, and 6.2 feet is provided along Tenth Avenue.
4. **Section 403.04E (Schedule B-1)** – Minimum rear yard setback, 30 feet is required; approximately 21.5 feet is provided along adjoining Lot 79.01.
5. **Section 403.94E (Schedule B-1)** - Minimum improvable lot area. 1,200 s.f. is required; approximately 962 s.f. is provided.

6. **Section 503A** – Permitted residential uses other than single-family dwellings shall be buffered with 6ft high screening with a 10 ft wide buffer area; no buffer areas are provided around the subject multi-family use property.
7. **Section 505B2(a)** – A driveway on a corner lot shall be setback a minimum of 40 ft from the intersecting lot lines at the corner; the driveway along Tenth Avenue is located approximately 23 ft from the Ridge Avenue Intersection.
8. **Section 505B2(b)** – A driveway for uses other than a single-family dwelling unit shall be setback at least 10 ft from all property lines; the driveway along Ridge Avenue is approximately 2 ft from adjoining Lot 79.01 and the driveway along Tenth Avenue is approximately 7.5 ft from adjoining Lot 78.01.
9. **Section 505B4** – The maximum width for a driveway associated with a single and/or two-family dwelling shall be 18 ft; approximately 21 ft is provided for the Tenth Avenue driveway.

WHEREAS, the application pertains to premises known and designated as Block 171, Lot 79 on the Tax Map of the Township of Neptune, which premises are located at 1225 Tenth Avenue and Ridge Avenue in an R-4 Zone.

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS, the Board held a public hearing with regard to the referenced application on the following date: AUGUST 7, 2013

WHEREAS, the following items were entered as Exhibits at the hearing:

1. EXHIBITS-A-1: Upstairs Kitchen photos.
2. EXHIBITS: A-2: Back Driveway photos.
3. EXHIBITS: A-3: Downstairs Kitchen photos.
4. EXHIBITS: A-4: Downstairs Kitchen photos.
5. EXHIBITS A-5: Other driveway photos.
6. EXHIBITS: A-6 exterior driveway.
7. EXHIBITS: A-7 Exterior of house.
8. EXHIBITS: A-8 Bing Aerial. Residential is the area so a commercial use would be out of place.

WHEREAS, The Board listened to the Testimony of the following:

1. MARYANNE HAYES (MR. HAYES HAS CANCER AND IS NOT WELL ENOUGH TO ATTEND HEARING.)
2. CHRISTINE COFONE, PROFESSIONAL PLANNER

WHEREAS, The Board took Questions from the following members of the Public as to the witnesses presented:

1. None.

WHEREAS, The Board took Public Commentary on the Application upon conclusion of the witness testimony as follows:

1. None.

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. The property was purchased in 1979. There are two delineated structures in the units. There are two driveways. The upstairs has two bedrooms and downstairs has 3 bedrooms.
2. The property at time of purchase had two residential units and there were Certificates of Occupancy for each unit.
3. The property had two separate sewer bills.
4. The property was listed on the tax rolls as a 2 family.
5. The Applicant has agreed to abandon the variance for the commercial use.
6. The Applicant agrees to repave the driveways with new asphalt/macadam.
7. A variance for is required for the 2 bedroom unit because the minimum is 1000 sq. feet. No variance is required for the three bedroom unit.
8. Parking in the driveways will be approximately for 5 cars which is close to what is required and this is a corner property which allows for off street parking.
9. From a planning point of view, this was an illegally converted 2 family home. There were no subsequent variances granted.
10. There was no overt act to abandon any portion of the property or the two systems which service these apartments.
11. There are no multi family houses in the area but there are properties with 2 structures on them.
12. Negative Criteria: There is no impact without deleterious impact. This property has sufficient space and is in an appropriate location.
13. Criteria (g) is established. This is an existing 2 family structure which has existed for quite some time.
14. **CONDITION OF USE: LETTER TO ADJOINING OWNER REGARDING THE ENCROACHMENT AND PERMISSION GIVEN FOR THE CURRENT ENCROACHING STRUCTURE BUT A DEFINITIVE STATEMENT THAT ENCROACHMENT SHALL NOT CONTINUE BEYOND THE LIFE OF THIS STRUCTURE.**

WHEREAS, in order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan, and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Neptune that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

1. Based upon the aforesaid findings of fact, the Board concludes that:
 - a. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.
2. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Township of Neptune.
3. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Neptune that the following be and are hereby **GRANTED**:

A Use Variance to permit two (2) residential apartment units, one upstairs and one downstairs. A variance is granted for the existing size of the two bedroom unit. The Applicant has further agreed to abandon the commercial retail use. The Applicant further agrees to repave both driveways on the subject property within 3 months of the memorialization of this Resolution and further, the Applicant's attorney is directed to send a Letter of Encroachment with a Reservation of Rights to Enforce Removal of subsequent structures.

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. All Plans must be approved by Township Engineer and Code and Construction Departments for the issuance of Permits;
 - b. MONMOUTH COUNTY PLANNING BOARD;
 - c. FIRE MARSHALL;

- d. BOARD OF HEALTH;
 - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
 - f. AFFORDABLE HOUSING CONTRIBUTION (ORD. 04-22)
 - g. BOARD OF ADJUSTMENT PLANNER (Per Report)
 - h. BOARD OF ADJUSTMENT ENGINEER (Per Report);
 - i. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
 - j. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING.
 - k. FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARDS'S PROFESSIONALS.
 - l. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.
2. SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

ROLL CALL VOTE:

THOSE IN FAVOR: **P. Dunlap, W. Frantz, J. Gilligan, T. Healy, J. Sears, C. Johnson, R. Eichenour**

THOSE OPPOSED: **None.**

ABSENT: **B. Bascom, C. Suarez, D. Fericola, D. Harris**

ABSTAINED: **None.**

MEMORIALIZATION VOTE:

THOSE IN FAVOR:

THOSE OPPOSED:

ABSENT:

ABSTAINED:

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Neptune at its meeting on August 7, 2013 and memorialized at the meeting held on September 4, 2013.

Date: **September 5, 2013**

Kristie Armour, Administrative Officer of the
Zoning Board of Adjustment
Township of Neptune

APPLICANT: MACEDONIA BAPTIST CHURCH
APPLICATION NUMBER: ZB13/08
BLOCK: 266
LOT: 35
ADDRESS: 1924 Heck Avenue
ATTORNEY FOR APPLICANT: Jennifer S. Krimko, Esq.
RESOLUTION NUMBER: 13-12



**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF NEPTUNE
FOR A USE VARIANCE**

MR. JOE L. SEARS, offered the following Resolution moved and seconded by **MR. JAMES GILLIGAN**:

WHEREAS, **MACEDONIA BAPTIST CHURCH**, hereinafter referred to as the "applicant" filed an application with the Zoning Board of Adjustment of the Township of Neptune, (hereinafter referred to as the "Board") seeking the following relief:

A USE VARIANCE APPROVAL PURSUANT TO N.J.S.A. 40:55D-70.D, WITH A WAIVER FROM THE SUBMISSION OF THE FORMAL SITE PLAN REQUIREMENTS, TO USE THE EXISTING BUILDING AS A HOUSE OF WORSHIP, WHICH IN ADDITION TO PEWS/ALTER/CHOIR AREA FOR PRAYER, WILL ALSO INCLUDE CLASSROOMS, A BOOKSTORE, OFFICES AND A BAPTISMAL ALONG WITH OTHER ASSOCIATED ACCESSORY USES TO THE HOUSE OF WORSHIP. A HOUSE OF WORSHIP IS NOT A PERMITTED, CONDITIONAL OR ACCESSORY USE IN THE L1 ZONE DISTRICT IN WHICH THE PROPERTY IS LOCATED. AS PART OF THE PROPOSAL, APPLICANT PROPOSES TO RESTRIPE THE EXISTING PARKING AREAS AND CIRCULATION DRIVES, REMOVE AN EXISTING LOADING AREA, AND CONSTRUCT A REFUSE ENCLOSURE AND SIDEWALK/HANDICAPPED RAMP ALONG A PORTION OF THE BUILDING.

Applicant seeks bulk variance relief pursuant to N.J.S.A. 40:55-70(c) as follows:

1. Front yard setback of 17.8 feet, whereas a minimum of 40 feet is required. (Existing Condition)
2. Side yard setback (west) of 0 feet, whereas a minimum of 25 feet is required. (Existing Condition)
3. Combined side yard setback of 31 feet, whereas a minimum of 50 feet is required. (Existing Condition)
4. Lot coverage of 75.2%, whereas a maximum of 70% is permitted (Existing Condition)
5. Location of a non-residential driveway within approximately 2 feet of the westerly and easterly property lines, whereas a minimum of 5 feet is required. (Existing Condition)

6. Location of parking spaces within the required front yard setback, whereas same is not permitted. (Existing Condition)
7. Parking lot setback from side lot lines of 0 and 2 feet, whereas a minimum of 10m feet is required. (Existing Condition)
8. Failure to adequately screen the parking lot. (Existing Condition)
9. Setback of freestanding sign from Heck Avenue right-of-way of approximately 2 feet, whereas a minimum of 5.25 feet is required for a 6.833 foot high sign. (Existing Condition)

WHEREAS, the application pertains to premises known and designated as Block 266, Lot 35 on the Tax Map of the Township of Neptune, which premises are located at 1924 Heck Avenue;

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS, the Board held a public hearing with regard to the referenced application on the following date: August 7, 2013

WHEREAS, the following items were entered as Exhibits at the hearing:

1. EXHIBIT A-1: Survey prepared by William H. Zieman, Jr., PLS, dated January 10, 2008, consisting of one (1) sheet.
2. EXHIBIT A-2: Use Variance Site Plan prepared by Nelson Engineering Associates, Inc., dated April 3, 2013, consisting of (1) sheet.
3. EXHIBIT A-3: Architectural Plan prepared by Monteforte Architectural Studios, LLC, dated April 22, 2013, consisting of one (1) sheet.
4. EXHIBIT A-4: Aerial Photo of Site from Nelson Engineering.
5. EXHIBIT A-5: Elevations of Building Architect dated August 2, 2013.
6. EXHIBIT A-6: Color Rendering of A-2, used to display on board.

WHEREAS, The Board listened to the Testimony of the following:

1. DAVID BOESCH, VP OF NELSON ENGINEERING.
2. JAMES J. MONTEFORTE, AIA
3. PASTOR TOMMY MILES:
4. CHRISTINE COFONE: PROFESSIONAL PLANNER

WHEREAS, The Board took Questions from the following member of the Public as to the witnesses presented:

1. None.

WHEREAS, The Board took Public Commentary on the Application upon conclusion of the witness testimony as follows:

1. None

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. MACEDONIA BAPTIST CHURCH has been leasing the premises for 6 months.
2. The Applicant advises that they are willing to improve the lighting to bring to ordinance requirements, provide additional landscaping in certain areas and repair pavement if necessary.
3. That 1924 Heck Avenue (Construction Companies and Metro Self Storage) consist of approximately 32,900 square feet with parking and circulation areas to north and east of building. There is gravel/open space on southern portion on site.
4. This is an adaptive reuse of an existing site and will now be adaptive half a house of worship and half warehouse.
5. The two uses can operate together because they are used at different times of the day. The parking demand and operational demand do not coincide.
6. The south face of building will be redone. There will be barrier free access to building. A new trash enclosure is proposed.
7. The parking lot will be striped and the Applicant has a commitment from the landlord that the trailers will be removed.
8. There are 264 seats in church and the requirement for parking is then only 66 spaces, 1 space for every 4 seats.
9. The Church had 50 active members and has had tremendous growth and as a result, their current building began to stunt growth. The Church wanted to remain in Neptune.
10. This use meets the statutory criteria: Houses of Worship are an inherently beneficial use. This presumptively satisfies the positive criteria.

11. Negative criteria: This applicant will have the trailers removed and occupy an existing building. Applicant is actually decreasing the negative impacts to the surrounding neighborhood and improving the property in a positive manner for the community.
12. The benefits outweigh the negative criteria.
13. The LI district talks about alternative uses in LI zone and will be consistent with the January 2012 Master Plan.
14. The plan calls for an investigation of alternate uses in LI zone (new master plan). This would be supportive of that alternative use.

WHEREAS, in order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan, and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Neptune that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

1. Based upon the aforesaid findings of fact, the Board concludes that:
 - a. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.
2. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Township of Neptune.
3. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Neptune that the following be and are hereby GRANTED:

APPLICANT IS GRANTED A USE VARIANCE TO USE THE EXISTING BUILDING AS A HOUSE OF WORSHIP, WITH ADDITIONS TO THE AREA OF THE SUBJECT PROPERTY PER THE PLANS SUBMITTED TO THE BOARD OF ADJUSTMENT, AND RESTRIPE THE EXISTING PARKING AREAS AND CIRCULATION DRIVES, REMOVE AN EXISTING LOADING AREA, AND CONSTRUCT A REFUSE ENCLOSURE AND SIDEWALK/HANDICAPPED RAMP ALONG A PORTION OF THE BUILDING, WHICH IS ALLOWED.

THIS APPROVAL IS BASED ON THE APPLICANT'S REPRESENTATION THAT IF AND WHEN THEY EXPAND THE CHURCH BEYOND 14,312 SQUARE FEET, THEY HAVE TO REAPPLY TO THE ZONING BOARD AND RETURN FOR A SITE PLAN. THIS IS A CONDITION OF APPROVAL. A WAIVER OF SITE PLAN AT THIS TIME IS GRANTED BASED ON THIS CONDITION.

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. All Plans must be approved by Township Engineer and Code and Construction Departments for the issuance of Permits;
 - b. MONMOUTH COUNTY PLANNING BOARD;
 - c. FIRE MARSHALL;
 - d. BOARD OF HEALTH;
 - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
 - f. AFFORDABLE HOUSING CONTRIBUTION (ORD. 04-22)
 - g. BOARD OF ADJUSTMENT PLANNER (Per Report)
 - h. BOARD OF ADJUSTMENT ENGINEER (Per Report);
 - i. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
 - j. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING.
 - k. FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARDS'S PROFESSIONALS.
 - l. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.
 - m. APPLICANT WILL INSTALL parking lot lighting and trees per BOARD planner AND ENGINEER at approval phase.
2. SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

ROLL CALL VOTE:

THOSE IN FAVOR: **P. Dunlap, W. Frantz, J. Gilligan, T. Healy, J. Sears, C. Johnson, R. Eichenour**

THOSE OPPOSED: **None.**

ABSENT: **B. Bascom, C. Suarez, D. Fernicola, D. Harris**

ABSTAINED: **None.**

MEMORIALIZATION VOTE:

THOSE IN FAVOR:

THOSE OPPOSED:

ABSENT:

ABSTAINED:

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Neptune at its meeting on **August 7, 2013** and memorialized at the meeting held on **September 4, 2013**.

Date: **September 5, 2013**

Kristie Armour, Administrative Officer of the
Zoning Board of Adjustment
Township of Neptune

WITNESS LIST
ZONING BOARD OF ADJUSTMENT

September 4, 2013

Atifaq Corporation
1800 Highway 33
Block 282, Lots 1-5

Engineer: **Charles Surmonte, P.E.**
301 Main Street, 2nd Floor
Allenhurst, NJ 07711
732-660-0606

Architect: **Bashir A. Hamid, RA**
1501 Dubac Road
Wall, NJ 07719
908-528-5228

Planner: **Christine Cofone, PP, AICP**
125 Half Mile Road, Suite 200
Red Bank, NJ 07701
732-933-2715

EXHIBIT LIST
ZONING BOARD OF ADJUSTMENT
September 4, 2013

Atifaq Corporation
1800 Highway 33
Block 282, Lots 1-5

- A-1 Survey of Property prepared by Charles Surmonte, PE, PLS dated September 21, 2011, consisting of one (1) sheet
- A-2 Site Plan prepared by Charles Surmonte, PE, PLS, dated January 21, 2013, consisting of three (3) sheets.
- A-3 Architectural Plans prepared by Bashir A. Hamid, RA, dated March 22, 2013, consisting of one (1) sheet
- A-4 Sign Plan prepared by Rex Signs consisting of one (1) sheet
- A-___
- A-___
- A-___
- A-___