

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, February 3, 2021. Chrmn Mark Zecchino led the entire assembly in the Pledge of Allegiance to the Flag of the United States of America. Pursuant to the "Open Public Meeting Law" all notice requirements were satisfied. Chrmn Zecchino announced the time, place, and form of notice as well as advising all applicants that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

PRESENT: COMRS GEORGE SILVA, ZALMAN GURKOV, SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR DANIEL TRENK.

Chrmn Zecchino advised all applicants that the testimony given before the Board was being tape recorded. The applicants were further advised of the right of appeal and the procedure to obtain a stenographic record of the Board.

Upon motion made by Comr Michael Molner, seconded by Comr Scott Sochon, the Minutes of the January 20, 2021, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

- | | |
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| 1.
Use
Variance;
Variances | <p>LEXINGTON PARTNERS, LLC,
340 Lexington Avenue, Block 8.22,
Lots 37 and 39 – RB3 – Applicant
requests the following:</p> <ul style="list-style-type: none">1) A D.6 (Height Use Variance 3 stories and 35’ Permitted, 4 stories and <u>48’</u> Proposed) is required.2) Bulk variance for minimum lot area per dwelling unit (2178 square feet required, <u>558’</u> proposed).3) Minimum lot width (100’ required, 69.97’ proposed).4) Minimum front yard setback (25’ required, 1.34’ proposed).5) Minimum rear yard setback (48.5’ required, 5.01’ proposed).6) Minimum side yard setback (10’ required, 5.56’ proposed).7) Minimum side yard setback for both side yards (22’ required, 11.12’ proposed).8) Minimum street side yard setback (15’ required, 5.56’ proposed).9) Lot coverage (25% permitted, 82.86% proposed).10) Parking spaces (<u>56</u> spaces required, <u>42</u> spaces proposed). |
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11) Off-street parking and loading spaces, parking aisles and maneuvering areas not to be located in any required front yard and within ten feet of a required corner side lot line within 10’ of a rear lot line permitted but encroachments into each of said setbacks is proposed, high pressure sodium site lighting fixtures required but no longer manufactured. Therefore, the Applicant proposes fluorescent fixtures similar in size, shape and lighting quality to that which is required and all off street parking areas having 10,000 or more square feet of paved area shall provide landscaping for the interior parking lot areas at a minimum of 20 square feet of interior lot landscaping for each parking space with a minimum landscape dimension of 5’x5’ which the applicant does not provide and for which it seeks a variance.
NOTE: AMENDED NOTICE-CHANGES UNDERLINED.

This matter was previously continued by the Board until the February 17, 2021, meeting of the Board.

2.
Use
Variance;
Variance

MICHAEL PONCE, 347 Piaget Avenue, Block 18.02, Lot 6 – RB2 – Applicant proposes raze the existing house and construct a 4 unit residential building. A use variance is required for multi-family within an RB-2 zone. The driveway is proposed within the required right side yard setback. Such other relief as may be required by the Board.

At the request of the attorney for the applicant, this matter was continued by the Board until the March 3, 2021, meeting of the Board.

3.
Use
Variance;
Variances

QUICKS REALTY LLC, 802 Van Houten Avenue, Block 36.10, Lot 16 – B-C – Application to demolish the existing former gas station (last used as an automobile part store) and existing one-family house and replace them with a new building housing a delicatessen and parking on the first floor and yard and a total of eight (8) apartments on the second and third floors requiring the following variances and approvals:
1. Site Plan approval is required.
2. Use Variances required to permit two (2) principal uses on the same lot and to permit residential uses on the lot.
3. Bulk variances required as follows:
a. Maximum building height (30’ and 2 stories permitted; 3 stories, 36.2” proposed).
b. Side yards each one half the height of the building (18’1” required; proposed right side 5’.

- c. Maximum lot coverage 60% permitted; 94.7% proposed.
 - d. Off street parking or loading spaces or maneuvering areas shall not be located within 10' of any corner side lot line or within 5' of any other lot line required; 7.7' parking spaces proposed for side lot line and 2.5' set back proposed for rear parking and maneuvering.
 - e. Number of parking spaces required 27 spaces; 20 spaces proposed.
 - f. Insufficient parking lot landscaping proposed.
- (REVISED PLANS)**

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant was Charles Olivo, engineer, with offices at 92 Park Avenue, Rutherford, New Jersey. Matthew Trella, Esq., with offices at 1135 Broad Street, Clifton, New Jersey, appeared on behalf of an objector, Lucia Szot.

This is a continued hearing from the meetings of January 6, 2021.

The Board is in receipt of revised reports from Neglia Engineering Associates dated December 16, 2020, revised January 28, 2021; and Gregory Associates dated January 4, 2021, revised February 1, 2021.

Charles Olivo, professional engineer, testified on behalf of the applicant and stated that the applicant initially submitted a proposal for a 3-story mixed use building with parking on the ground floor, a delicatessen on the first floor, and 8 two-bedroom residential units; that the applicant has now revised the plans to reduce the number of units from 8 two-bedroom units to 6 one-bedroom units; that additionally, the plans have been revised to remove the full third story, and the building will become a two-story building; that as a result, the D-6 height variance is eliminated, the building height variance is eliminated since the number of stories is reduced from three to two; that there will be a 2,700 square foot delicatessen on the first floor; that there is a provision for 20 parking spaces; that entrances to the residential units is located on Orono Street; that entrance to the delicatessen is on Van Houten Avenue; that vehicles will enter and exit at both Van Houten Avenue and Orono Street.

At this point in the hearing, Chrmn Zecchino continued the matter to the February 17, 2021, meeting of the Board.

4.
Use
Variance;
Variances

**JOHN PILKIN, MOHAMMAD TAMMOUS,
AND SOPHIA DALIA**, 203 & 207 Lakeview
Ave., Block 2.12, Lots 48 and 49 – B-C – Use
variance to remedy the significant encroachment
of the improvement on 207 Lakeview Avenue
onto 203 Lakeview Avenue. In addition, the
following bulk variances are required:

Requirement	Existing (Lot 48)	Existing (Lot 49)	Proposed (Lot 48.01)	Proposed (Lot 49.01)
Lot Width 50	39.21**	65.10	26.19**	78.12
Min.Frt Yard 5	5.10	0.47**	5.10	0.47*
Side yard (1) 7.5	2.60**	0.00**	1.04*	2.01*
Side yard (both) 15	2.60**	27.80	3.64*	29.81

**Pre-Existing

*Variance

[Minor Subdivision]

This matter was previously continued by the Board until the February 17, 2021, meeting of the Board.

NEW HEARINGS

1.
Use
Variances;
Variances

20 SOMERSET PLACE, LLC, 20 Somerset
Place, Block 49.11, Lot 68 – M-2 – For a special
use variance and preliminary and final major
site plan and conditional use approval and/or
conditional use approval and/or conditional use
variance in order to permit the development of
the subject property for what is commonly
known as a “flex industrial” building which
provides for office, warehouse, light
manufacturing, machinery, indoor storage,
indoor parking, outdoor parking of vehicles
and equipment for contractors, machinists,
and tradesman of various types. The applicant
proposes to build such flex-industrial building
on the subject property together with related
parking lot and drive aisles. This use/structure
is not permitted in the zone whereat the property
is located and/or it is permitted conditionally
and the applicant does not meet all of the
conditions required by the ordinance and as such,
the applicant petitions the Zoning Board of
Adjustment for a use variance in order to
construct same.
In addition, the applicant requests preliminary
and final major site plan and bulk variances
associated with this proposal. The applicant has
submitted a plan depicting the manner in which
the property will be developed as described
herein.

In addition, the applicant request the following variances from the Zoning Ordinance of the City of Clifton:

1. Minimum Lot Area 10,000 s.f. required; 7,848 s.f. proposed. (Existing condition)
2. Minimum Lot Width 100 ft. required; 75 ft. proposed. (Existing condition)
3. Rear yard 20 feet required; 5 feet proposed.
4. Side Yard left 20 feet required; 5 feet proposed.
5. Side Yard right 20 feet required; 11 feet proposed.
6. Use variance for contractor's warehouse, interior garage, storage, office, flex industrial building, parking/storage of commercial vehicles and equipment.

In addition, the applicant requests any other variance, waiver, or exception as may be deemed necessary by the Zoning Board of Adjustment of the City of Clifton in order to secure approval of all plans, plats, and applications submitted. Please note that the applicant may request additional, or different relief than is listed herein. This application is subject to modification without further notice.

Steven C. Schepis, Esq., with offices at 339 Changebridge Road, Pine Brook, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Daniel Katzevich of 48 Brush Hill Road, Kinnelon, New Jersey, a member of the LLC; Michael Bet, an architect, who appeared virtually, with offices at 201 East Ridgewood Avenue, Ridgewood, New Jersey; and Nicholas Graviano, PP, AICP, JD, with offices in Holmdel, Lakewood, and Long Branch, New Jersey. There were no objectors.

Mr. Bet, an architect, testified virtually since he was in quarantine and could not be present before the Board and stated that the subject premises is currently a two and one-half story residential dwelling; that the applicant proposes to demolish all existing structures and construct a two-story flex industrial and office building; that parking is proposed for six parking spaces; that the interior will consists of storage, light manufacturing, storage of commercial vehicles and equipment, and administrative professional office.

Mr. Graviano testified as a planner and stated that the applicant proposes a redevelopment of the site which is located in an M-2 zone; that the proposal calls for a two-story flex industrial and office building; that the residence at the property at the present time is a non-conforming use; that the proposal is particularly suited for the site and furthers the purposes of zoning; that the variances requested are minimum lot area, 10,000 square feet is required and 7,848 square feet is proposed; minimum lot width 100 feet required and 75 feet is proposed; rear yard setback 3.5 existing and 5 feet proposed; side yard setback 2.8 existing and 5 feet proposed; that the proposal represents a substantial improvement to the site with no negative impacts to the zone plan and the zone ordinance.

Offered into evidence were the following exhibits:

- “A-1” is a plan of the proposed flex industrial/office building; and
- “A-2” a sample of the exterior stone of the building.

The Board is in receipt of a report from Neglia Engineering Associates dated January 18, 2021.

After a review of the testimony, Comr Louis DeStefano moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution subject to the applicant complying with all recommendations set forth in the report of Neglia Engineering Associates dated January 18, 2021. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

2.
Variances
- PB NUTCLIF MASTER, LLC**, 340 Kingsland Street, Block 80.02, Lot 1.01, 3, and 4.04 – M-3 – Preliminary and Final Major Site Plan approval, A variance pursuant to N.J.S.A. 40:55D-70(d) to permit construction of private roadways at property identified as Block 80.02, Lot 1.01, 3, and 4.04 (the “Premises”) and A variance pursuant to N.J.S.A. 40:55D-70(c) to permit LED street lights.

The Premises are a portion of the former **HOFFMAN LA ROCHE** (“HLR”) campus comprising approximately 116 acres, now known as “**ON3**,” located in the City of Clifton (Passaic County) and Township of Nutley (Essex County). 340 Kingsland Street was sometimes used as the street address for the HLR campus. The Premises are located wholly within the City of Clifton and in the M-3 (special industrial) zoning district.

The Applicant is seeking a variance from 461-13.1.O. (which references Section 461-13.1.N.) of the Code of the City of Clifton, Chapter 461 (Zoning (the “Ordinance”) pursuant to N.J.S.A. 40:55D-70(d), to permit the construction of private roadways, including a portion of Metro Boulevard, Prism Way and Isabella Street, where portions of some roads are the only use on the subject lot, including Lot 3 in Block 80.02, thereby resulting in the private roadway being a principal use thereon where such use is not specifically permitted in the zone.

Applicant is also seeking a variance from 461-52.A pursuant to N.J.S.A. 40:55D-70(c) to permit LED street lights where high pressure sodium vapor lighting fixtures are required.

The Applicant is also seeking a variance from N.J.S.A. 40:55D-35 (as authorized pursuant to N.J.S.A. 40:55D-36) to permit approval of the requested site plan for development of private roadway on lots that do not abut a public street giving access thereto. The Applicant also is seeking such additional or other variances, exceptions, approvals, permits, waivers or relief from or pursuant to the Ordinance, including waivers of design standards and/or submission requirements, as may be determined to be necessary to develop the Premises in the manner indicated in the application, plans and materials.

Meryl A.G. Gonchar, Esq., with Sills, Cummis & Gross, One Riverfront Plaza, Newark, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Richard Procanik, Civil Department Manager, with offices at 92 East Main Street, Somerville, New Jersey; David Novak of 25 Westwood Avenue, Westwood, New Jersey, a Professional Planner from Burgis Associates; and Eugene Diaz of Prism Capital Partners, 310 Kingsland Street, Nutley, New Jersey, a principal of the applicant. There were no objectors.

Ms. Gonchar stated that the applicant seeks preliminary and final site plan approval to create new private roadways or to upgrade existing private roadways; that a D(1) use variance is required because private roadways are not a principal permitted use in the zone and portions of the proposed roads are not accessory to a principal use on the same lot and are therefore a principal use; that the property which is the subject of this application is either currently used as a private roadway, parking area, or drive aisles within the parking area; that the proposal is to construct a new private roadway in Clifton to serve existing or proposed buildings and other improvements in the ON3 campus; that a variance is also being sought from Sec. 461-13.1.O(1) (referencing Sec. 461.13.1.N) of the Code of the City of Clifton Zoning Ordinance to permit private roadway to be approved as a principal use on a lot where such use is not a principal permitted use in the M-3 zone; that lots which are the subject of this application were not included within any of the previously adopted Redevelopment Plan areas.

The Board is in receipt of reports from Gregory Associates dated February 1, 2021; and Neglia Engineering Associates dated January 28, 2021.

Mr. Procanik testified that he prepared the plans for the preliminary and final major site plan application for ON3 roadway; that the project proposes construction of an interior roadway network and associated roadway utilities and infrastructure for the future development of the ON3 campus; that site plan approval is required to create a new private roadway or to upgrade existing roadways; that a D1 variance is required because private roadways are not a principal permitted use in the zone and portions of the proposed roads are not accessory to a principal use on the same lot and are therefore a principal use; that no buildings are proposed in connection with the application, only the roadway and related improvements are being currently proposed on the lot or portions of the lot within the M-3 zone; that the proposed new private roadways being requested will serve existing or proposed buildings and other improvements on the ON3 campus; that a variance is also being sought from Section 461-13.1.O(1) (referencing Section 461.13.1.N of the Code of the City of Clifton, Chapter 461 to permit private roadways to be approved as principal uses on a lot where such use is not a principal use permitted in the M-3 zone; the lots which are the subject of this application are not included with any of the previously adopted Redevelopment areas; that the roadway construction includes

sidewalks, parking, striping, signage, lighting, ancillary improvements, utility infrastructure including sanitary sewers, storm drainage, water, electric, and telecommunication utilities.

Mr. Novak testified as a planner and testified as to the positive and negative criteria; that the special reason to permit construction of the private roadway is to serve access to existing or proposed buildings and other improvements; that the roadways are particularly suited for the purpose of allowing access to existing buildings at the site; that approval of the new private roadways may be granted without substantial detriment to the public good, and the roadways will not substantially impair the intent and purpose of the zone plan and the zoning ordinance; that the ordinance of the City of Clifton requires high pressure sodium vapor lighting, and the applicant is requesting LED lighting.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution subject to compliance with all recommendations set forth in the report of Neglia Engineering dated January 28, 2021. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

RESOLUTIONS

Chrmn Zecchino stated that the Board would act upon the Resolutions set forth on the Agenda:

1. Upon motion made by Comr Louis DeStefano, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of GIOVANNA INTILI for left side yard setback variance, combined side yard setback variance, and front yard setback variance to erect a second floor addition and rear addition and deck, and variance to allow bar sink and counters in basement at 138 Stanley Street, Block 25.06, Lot 21, was adopted. RA3

2. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Scott Sochon, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of RAJIV SHAH for variances for driveway in front of house in an area not serving a garage and curb cut width to convert attached garage to a bedroom and widen existing driveway and curb cut at 126 Abbe Lane, Block 33.08, Lot 5, was adopted. RA2

There being no further business before the Board, Comr George Foukas moved to adjourn. The motion was seconded by Comr Michael Molner with the unanimous approval of the entire Board.

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF FEBRUARY 3, 2021.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: 20 SOMERSET PLACE, LLC
for premises known as: 20 Somerset Place, Block 49.11, Lot 68
be and the same is hereby: GRANTED use variance, conditional use variance, bulk variances, and preliminary and final major site plan approval to permit the development of the subject property as a flex industrial building with office, warehouse, light manufacturing, machinery, indoor storage, indoor parking, and outdoor storage and parking of vehicles for contractors, machinists, and trades of various types.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 3, 2021. Said testimony along with the application and plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance, conditional use variance, preliminary and final major site plan approval to demolish an existing, non-conforming residence and construct a new flex industrial use building with related on-site parking at premises located at 20 Somerset Place, Block 49.11, Lot 68, which premises are located in an M-2 zone; and

WHEREAS, the Board, after hearing the testimony presented by the applicant and its experts, has made the following factual findings:

- a. There exists a non-conforming residence at the subject premises;
- b. The applicant proposes to demolish the residence and construct a new flex industrial building which conforms to the M-2 zone;
- c. Based upon the testimony of the applicant's planner, the proposed redevelopment will be for a conforming industrial use which is particularly suited for the site and furthers the purposes of zoning;
- d. A variance was previously granted on March 20, 2019, to premises located at 13 Somerset Place approving a flex industrial building;
- e. The proposal represents a substantial improvement to the site with no negative impacts to the zone plan and zone ordinance;
- f. The variances requested include minimum lot area where 10,000 square feet is required and the applicant is proposing 7,848 square feet; minimum lot width where 100 feet is required, and the applicant is proposing 75 feet; rear yard where 20 feet is required, and the applicant is proposing 5 feet; side yard where 20 feet is required, and the applicant is proposing 5 feet; side yard where 20 feet is required, and the applicant is proposing 11 feet;
- g. The applicant has satisfied the positive and negative criteria required for the grant of a conditional use variance;
- h. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;
- i. The benefits of the application outweigh the detriments, if any;

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since a non-conforming use is eliminated and a conforming use is approved; and

WHEREAS, the Board further finds that there has been no testimony presented to show that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a flex industrial building at premises located at 20 Somerset Place, Block 49.11, Lot 68, be and the same is hereby approved and the use variance, conditional use variance, bulk variances, and preliminary and final major site plan approval be and the same are hereby granted **SUBJECT TO THE FOLLOWING:**

A. COMPLIANCE WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF NEGLIA ENGINEERING DATED JANUARY 18, 2021; AND

B. USE OF THE PREMISES FOR CONTRACTOR'S WAREHOUSE, GARAGE WITH OFFICE, WAREHOUSE, ADMINISTRATION PROFESSIONAL OFFICE, INTERIOR STORAGE, LIGHT MANUFACTURING, MACHINER, PARKING, AND STORAGE OF COMMERCIAL VEHICLES AND EQUIPMENT; and further subject to such further governmental approvals as may be required by law and further subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.
16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.
24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

Resolution moved by: Comr LOUIS DE STEFANO.
Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF FEBRUARY 3, 2021.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,
that the application of: PB NUTCLIF MASTER, LLC
for premises known as: 340 Kingsland Street, Block 80.02, Lot 1.01, 3,
and 4.04
be and the same is hereby: GRANTED use variance, preliminary and final major
site plan approval to permit construction of private roadways and variance to
permit LED street lights.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 3, 2021. Said testimony along with the application and plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance, preliminary and final major site plan approval to permit construction of private roadways and to permit LED street lights located at 340 Kingsland Street, Block 80.02, Lot 1.01, 3, and 4.04, which premises are located in an M-3 zone; and

WHEREAS, the Board did hear testimony from the applicant's expert, Richard Procanik, PE, engineer; and David Novak, PP, AICP, planner; and

WHEREAS, the Board reviewed the reports of its planning consultant Gregory Associates LLC dated February 1, 2021; and the report of its engineering consultant, Neglia Engineering Associates dated January 18, 2021; and

WHEREAS, there were no objectors to the application; and

WHEREAS, the Board, after hearing the testimony presented by the applicant and its experts, has made the following factual findings:

- a. The subject premises received prior approval to subdivide the property into three lots and construct a 7-story parking garage consisting of 890,400 square feet and 2,566 parking spaces on proposed Lot B in Clifton and Lot V in Nutley; and the applicant further received D1 variance approval for the parking garages as they were not permitted uses in the M-3 zone, and also approval of 12-foot-high screening walls;
- b. The previous findings by the Board in the aforesaid Resolutions (October 24, 2018; September 18, 2019) are incorporated herein by reference and made a part hereof;
- c. The site is zoned M-3 special industrial zone;
- d. Private roadways are not a principal permitted use in the zone, and portions of the proposed roads are not accessory to a principal use on the same lot and are, therefore, a principal use;
- e. The purpose of constructing the private roadways will provide internal circulation to the ON3 campus and will provide access to the parking garages at the site;
- f. No buildings are proposed in connection with the application, as only roadway and related improvements are being proposed which exist or are currently proposed on the lots or portions of the lots within the M-3 zone;
- g. Based upon the testimony presented by the applicant's engineer, the proposed roadway construction will provide safe access to serve existing or proposed buildings and other improvements in the ON3 campus;
- h. Based upon the testimony of the applicant's expert, the applicant has satisfied the positive and negative criteria required for the grant of the use variance since the site is suitable and the proposal will advance the purposes of zoning set forth in N.J.S.A. 40:55D-2;

- i. The applicant has shown sufficient hardship to justify the grant of the lighting variance requested;
- j. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since it satisfies a number of goals and objectives of the Master Plan; and

WHEREAS, the Board further finds that the proposed roadways will help promote the health, safety, and general welfare of the site by providing safe access to the other buildings at the site and safe internal traffic circulation at the ON3 campus;

NOW THEREFORE, BE IT RESOLVED that the application to create new private roadways or to upgrade existing private roadways at premises located at 340 Kingsland Street, Block 80.02, Lot 1.01, 3, and 4.04, be and the same is hereby approved and the use variance, bulk variance, preliminary and final major site plan approval are hereby granted **SUBJECT TO THE FOLLOWING:**

A. All recommendations set forth in the report of Neglia Engineering Associates dated January 28, 2021;

B. Subject to all comments and recommendations of the City of Clifton Fire and Police Department regarding on-site access and circulation;

C. Subject location of fire hydrants to the City of Clifton as recommended by the Clifton Fire Department; and further subject to such further governmental approvals as may be required by law and further subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.
16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.

24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.
Seconded by: Comr LOUIS DE STEFANO.
Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner,
Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark
Zecchino.