

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, March 17, 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: COMRS 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 Scott Sochon, seconded by Comr Louis DeStefano, the Minutes of the March 3, 2021 regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

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| 1.
Use
Variance;
Variances | LEXINGTON PARTNERS, LLC,
340 Lexington Avenue, Block 8.22,
Lots 37 and 39 – RB3 – Applicant
requests the following:
1) A D.6 (Height Use Variance 3
stories and 35' Permitted, 4 stories
and 48' Proposed) is required.
2) Bulk variance for minimum lot area
per dwelling unit (2178 square feet
required, 558' 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 (56 spaces required,
42 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 April 7, 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.

This matter was continued by the Board until the May 5, 2021 at the request of the attorney for the applicant.

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.
- (NOTE: PLANS ARE REVISED)**

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 were the following: Gary Kliesch, AIA, with offices at 36 Ames Avenue, Rutherford, New Jersey, an architect; Charles Olivo, with offices at 92 Park Avenue, Rutherford, New Jersey, an engineer; Shady Shalimar, 7409 Durham Avenue, North Bergen, New Jersey, the applicant. Also appearing on behalf of objector Lucia Szot was Matthew Trella, Esq., with offices at 1135 Broad Street, Clifton, New Jersey. There were two objectors present and sworn: Christine Witmyer of 800 Van Houten Avenue, Clifton, New Jersey; and Gary Mele of 816 Van Houten Avenue, Clifton, New Jersey.

This is a continued hearing from the meetings of January 6, 2021 and February 3, 2021.

Charles Olivo testified as an engineer and gave testimony concerning the revised plans submitted to the Board; that the D-6 height variance is eliminated; that the building height variance is eliminated; that the applicant proposes a two-story building with 2,700 square feet delicatessen on the first floor with 20 parking spaces and 6 one-bedroom units on the second floor; that the entrance to the residential units will be on Orono Street, and the entrance to the delicatessen on Van Houten Avenue; that vehicular two-way entrances are proposed on Van Houten Avenue and Orono Street; that the trash enclosure is proposed abutting the property line to the southeast.

Gary Kliesch testified as an architect and stated that the applicant has revised its plans to include a layout of 6 one-bedroom units; and he testified as to the parking layout as well as the lighting plan.

Offered into evidence as "Exhibit A-3" is a color-coding of the building.

Christine Witmyer objected to the application and stated that the proposal is an overuse of the premises; that it will cause traffic problems in the neighborhood; that the applicant has not sustained the burden of proof to satisfy the positive and negative criteria; that the applicant has shown no hardship for the bulk variances.

Gary Mele objected to the application and stated that parking is a problem in the neighborhood; that this proposal will have a negative impact on his carpeting business.

Mr. Carlet stated that the applicant is requesting an amendment to the application to reduce the number of one-bedroom units from 6 to 4 one-bedroom units.

Shady Shalimar gave testimony in support of the application.

After a review of the testimony, Comr Louis DeStefano moved to grant the application, citing the fact that the applicant has made numerous changes to the application concerning recommendations made by the Board. Comr DeStefano further instructed the Counsel Secretary to prepare the proper Resolution for approval of the application subject to the following conditions:

1. Deliveries and garbage pick-up are not permitted before 7 A.M. and not after 5 P.M.;
2. The applicant may open up for a period of 16 hours not to exceed 11 P.M.;
3. The applicant will buffer the air-conditioner units;
4. The location of the dumpster to the right rear of the property;
5. That the applicant erect a sign to indicate no parking in the loading area;
6. Compliance with all recommendations set forth in the reports of Neglia Engineering dated December 16, 2020 and revised January 28, 2021;
7. Subject to Passaic County Planning Board approval.

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.

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| 4.
Use
Variance | BEN AND SARAH COHEN , 150 South Parkway, Block 60.04, Lot 2 – RA3 –
Applicant proposes to build a rear entrance to the basement. There is an existing, permitted two fixture “powder room” in the basement. A use variance is required for a basement “powder room” with a direct access to the exterior. |
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A. William Sala, Jr., Esq., with offices at 140 Hepburn Road, 11H, Clifton, New Jersey, appeared on behalf of the applicant. Present and affirmed to give testimony was Gen Cohen of 150 South Parkway, Clifton, New Jersey. There were no objectors.

Mr. Sala stated that the applicant stated that the applicant proposes to build a rear entrance to the basement at the subject premises; that there is an existing permitted two-fixture powder room in the basement; that a use variance is required for a basement powder room with a direct access to the exterior.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application with the stipulation that a deed restriction be recorded restricting the premises to a one-family dwelling. The motion was seconded by Comr Zalman Gurkov. Voting for the motion were Comrs Zalman Gurkov, Scott Sochon, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting against the motion were Comrs Michael Molner, Louis DeStefano, and George Foukas. There were four affirmative votes and three negative votes. The application was for a use variance, and by operation of law, the failure to receive the number of votes required for approval, which is five, constitutes a denial of the application pursuant to N.J.S.A. 40:55D-9(a). Thereupon, the matter was denied by operation of law 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.

NEW HEARINGS

1. **CESAR SANTOS**, 582 Clifton Avenue,
Block 20.04, Lot 19 – B-A1 – Applicant
Variances proposes to add 4’ to the existing rear yard
deck and install an AC unit on the right
side of the house. The following variances
are requested:
1. Right side yard is 5.08’ and left side yard
is 5.66’ where a minimum of 6’ is required;
 2. Combine side yards are 10.74’ where 16’
is required.
 3. Lot coverage proposed at 28% where a
maximum of 27% is permitted.
 4. Air conditioning unit is proposed 2.5’
from right side yard where 6’ is required.

Cesar Santos, residing at 582 Clifton Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he proposes to add 4 feet to the existing rear yard setback and install an air-conditioning unit on the right side of the house; that the purpose of the extension is to extend the rear deck from 7 feet to 11 feet; that the condenser on the right side of the house is 2.5 feet from the property line; that the applicant requires variances as follows: the right side yard setback is 5.08 feet and the left side yard setback is 5.66 feet where a minimum of 6 feet is required; the combined side yard setback requirement is 16 feet, and the applicant is proposing 10.74 feet; that the lot coverage permitted is 27 percent, and the applicant proposes 28 percent; that the setback for the air-conditioning unit is 2.5 feet from the right side yard setback where 6 feet is required.

After a review of the testimony presented by the applicant, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Scott Sochon. 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. **FRANCISCO FRANCO**, 20 Whitmore
Place, Block 8.14, Lot 22 – R-B3 –
Variances The proposed existing one-family home
exceeds permitted lot coverage and
combined side yards are 15 feet from the
existing property line where 16 feet is
permitted. Applicant seeks to complete
and finish construction of the second
floor of the existing single-family home.
Although the Applicant is not requesting
any new variances, the Applicant requests
any and all bulk variance relief (including
all existing, non-conforming conditions),

as well as waivers and/or other reviews that the Board may deem appropriate and applicable.

Alfred V. Acquaviva, Esq., with offices at 1114 Goffle Road, Hawthorne, New Jersey, appeared on behalf of the applicant. Present and sworn were Francisco Franco of 20 Whitmore Place, Clifton, New Jersey; and Vincente Varela, Jr., R.A. of 584 Main Avenue, Passaic, New Jersey, an architect, who gave testimony virtually.

Mr. Acquaviva stated that the applicant requests approval to complete and finish the construction of a second floor of an existing single-family dwelling at the subject premises; that the applicant will finish construction of two bedrooms and a bathroom on the second floor.

Vincent Varela, Jr., an architect, testified virtually what is necessary to complete the construction and further stated that the applicant seeks variance approval for lot coverage and combined side yards setback where 16 feet is required, and the applicant is proposing 15 feet.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variances requested. The motion was seconded by Comr Scott Sochon. 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 next order of business would be the adoption of the Resolutions set forth on the Agenda:

1. Upon motion made by Comr George Foukas, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOHN PILKIN, MOHAMMAD TAMMOUS, AND SOPHIA DALIA for minor subdivision, use variance, and bulk variances to correct significant encroachment of the improvement on 207 Lakeview Avenue onto 203 Lakeview Avenue at 203 & 207 Lakeview Avenue, Block 2.12, Lots 48 and 49, was adopted. B-C

2. Upon motion made by Comr Louis DeStefano, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of DANIEL MAYER for variances for front yard setback, right side yard setback, and combined side yard setbacks to erect a second floor addition at 33 Belmont Avenue, Block 70.03, Lot 21, was adopted. RA3

3. Upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of GUIDO PAPA for variance approval for a 5-foot-high solid fence with a 1-foot lattice on top, for a total of 6 feet, in the rear yard

and partially along both sides of the house at 20 Lincoln Avenue, Block 18.12, Lot 16, was adopted. RA3

4. Upon motion made by Comr Michael Molner, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of WILL BISHOP for variance approval for a 5-foot-high solid fence with a 1-foot lattice on top, for a total of 6 feet, along the rear of the property abutting Van Houten Avenue at 44 Sperling Road, Block 38.03, Lot 3, was adopted. RA3

5. Upon motion made by Comr Louis DeStefano, seconded by Comr George Foukas, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ERCIHAN OZCAN for a use variance for mixed use building to convert an existing business space previously used as a day care center to a retail grocery and gift store with residential use on the second floor at 253 Vernon Avenue, Block 5.14, Lot 18, was adopted. RB1

6. Upon motion made by Comr Scott Sochon, seconded by Comr Michael Molner, and affirmed by Comrs George Silva, Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ATIT D. RAVAL for variances for front yard setback, left side yard setback, right side yard setback, and combined side yard setback to build a second story addition and an enclosed front entry at 106 Pershing Road, Block 40.10, Lot 14, was adopted. RA3

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF MARCH 17, 2021.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: QUICKS REALTY LLC for premises known as: 802 Van Houten Avenue, Block 36.10, Lot 16 be and the same is hereby: GRANTED use variance for a mixed use two-story building with a delicatessen on the first floor, 4 one-bedroom residential units on the second floor along with 20 parking spaces, bulk variances for the off-street parking or loading spaces, parking aisles or maneuvering areas, number of parking spaces, and buffer width.

Testimony concerning the aforesaid application was taken by the Board at its meetings on January 6, 2021, February 3, 2021, and March 17, 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 variances and bulk variances to demolish the existing buildings on the site and construct a mixed use two-story building with 2,700 square foot delicatessen on the first floor, 4 one-bedroom residential units on the second floor, and 20 parking spaces at premises located at 802 Van Houten Avenue, Block 36.10, Lot 16, which premises are located in the B-C general business zone; and

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

- a. The site in question contains a 2 ½ story two-family dwelling, a former gas station building, and a one-story commercial building;
- b. The applicant proposes to demolish all structures and construct a new two-story building with a delicatessen on the first floor and 4 one-bedroom units on the second floor which conform to other uses in the neighborhood;
- c. Based upon the testimony of applicant's planner, the proposed redevelopment will be particularly suited for the site and further the purposes of zoning;
- d. The proposal represents a substantial improvement to the site with no negative impacts to the zone plan and zone ordinance;
- e. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- f. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;
- g. 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; 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 as aforesaid for a mixed use of two-story building at premises located at 802 Van Houten Avenue, Block 36.10, Lot 16, be and the same is hereby approved and the use variance and bulk variances, site plan, and parking variance be and the same are hereby granted subject to such further governmental approvals as may be required by law and **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Deliveries and garbage pick-up are not permitted before 7 A.M. and not after 5 P.M.;
2. The applicant may open up for a period of 16 hours not to exceed 11 P.M.;
3. The applicant will buffer the air-conditioner units;
4. The location of the dumpster to the right rear of the property;
5. That the applicant erect a sign to indicate no parking in the loading area;
6. Compliance with all recommendations set forth in the reports of Neglia Engineering dated December 16, 2020 and revised January 28, 2021;
7. Subject to Passaic County Planning Board approval;

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 MARCH 17, 2021.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,
that the application of: BEN AND SARAH COHEN
for premises known as: 150 South Parkway, Block 60.04, Lot 2
be and the same is hereby: DENIED use variance for a basement powder room
with a direct access to the exterior.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 17, 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, there was a motion made to approve the application which received the four votes of Comrs Zalman Gurkov, Scott Sochon, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino; and there were three negative votes by Comrs Michael Molner, Louis DeStefano, and George Foukas, resulting in a failure of the motion to receive the required five affirmative votes needed for a use variance. Thereupon, the matter was denied by operation of law as follows:

WHEREAS, the applicant requests use variance for a basement powder room with a direct access to the exterior at premises located at 150 South Parkway, Block 60.04, Lot 2, which premises are located in a RA3 zone; and

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

- a. The applicant requests use variance approval for basement powder room with direct access to the exterior;
- b. The applicant has not satisfied the positive and negative criteria required for the grant of a use variance;
- c. The applicant has shown no hardship to justify the grant of the use variance;
- d. The detriments of the application outweigh the benefits, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will not be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for a use variance for a basement powder room with a direct access to the exterior at premises located at 150 South Parkway, Block 60.04, Lot 2, be and the same is hereby disapproved and the use variance be and the same is hereby denied

**Resolution moved by: Comr MICHAEL MOLNER.
Seconded by: Comr LOUIS DE STEFANO.
Affirmed by: Comrs Michael Molner, Louis DeStefano, and
George Foukas.**

MEETING OF MARCH 17, 2021.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,
that the application of: CESAR SANTOS
for premises known as: 582 Clifton Avenue, Block 20.04, Lot 19
be and the same is hereby: GRANTED bulk variances to extend the rear deck from
7 feet to 11 feet and side yard setback variances to install an air-conditioning unit on
the right side of the house.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 17, 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 George Foukas moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid to extend the rear yard setback and install an air-conditioning unit on the right side of the house at premises located at 582 Clifton Avenue, Block 20.04, Lot 19, which premises are located in a B-A1 zone; and

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

- a. The applicant proposes to extend his rear deck from 7 feet to 11 feet in the rear yard;
- b. The applicant intends to install an air-conditioning condenser on the right side of the house 2.5 feet from the property line;
- c. The right side yard setback is 5.08 feet and the left side yard setback is 5.66 feet where a minimum of 6 feet is required;
- d. The combined side yard setback is 10.74 feet, and 16 feet is required;
- e. The lot coverage permitted is 27 percent, and the applicant is proposing 28 percent;
- f. The air-conditioning unit is 2.5 feet from the right side yard where 6 feet is required;
- g. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;
- h. 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; 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 as aforesaid to extend the existing rear deck and install an air-conditioning unit on the right side of the house at premises located at 582 Clifton Avenue, Block 20.04, Lot 19, be and the same is hereby approved and the variances for rear yard setback, right side yard and left side yard setback, combined side yard setbacks, and lot coverage be and the same are hereby granted 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 GEORGE FOUKAS.
Seconded by: Comr SCOTT SOCHON.
Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MARCH 17, 2021.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: FRANCISCO FRANCO for premises known as: 20 Whitmore Place, Block 8.14, Lot 22 be and the same is hereby: GRANTED lot coverage and combined side yards to complete and finish construction of the second floor of the existing single-family dwelling.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 17, 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 lot coverage and combined side yard variances to complete and finish construction of a second floor to an existing single-family dwelling at premises located at 20 Whitmore Place, Block 8.14, Lot 22, which premises are located in a R-B3 zone; and

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

- a. The applicant seeks variance approval to complete and finish the construction of two bedrooms and a bathroom on the second floor of an existing single-family dwelling;
- b. The home exceeds permitted lot coverage, and combined side yards are 15 feet to the existing property line where 16 feet is permitted;
- c. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- d. 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; 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 as aforesaid to complete and finish construction of the second floor of the existing single-family dwelling at premises located at 20 Whitmore Place, Block 8.14, Lot 22, be and the same is hereby approved and the bulk variances for lot coverage and combined side yard setback be and the same are hereby granted 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.
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12. Hudson Essex Passaic Soil Conservation District approval or waiver.
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17. All utilities to be constructed underground.
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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.
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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.
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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 SCOTT SOCHON.
Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.