

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, August 18, 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 URI JASKIEL, GEORGE SILVA, SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR ZALMAN GURKOV.

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 July 21, 2021 regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

- | | |
|--|---|
| 1.
Use
Variance;
Subdivision;
Variance | CLIFTON IL, LLC , 782, 784, 810 & 818 Valley Road, Block 44.01, Lots 11, 14, 15 & 18 – R-A1 – For a subdivision to subdivide parts of Lot 15 and 18 in Block 24.01 (ST. GEORGE’S GREEK ORTHODOX CHURCH property) and merge the subdivided portions with existing Lot 14 in said block which was previously approved for a thirty-one (31) unit senior citizen apartment development; a Use Variance for fifty (50) senior citizen apartment units, eliminating the prior approval given to Lot 14, and create a new senior citizen independent living facility connected to the new assisted living facility; and a use variance given to said Lot 11 permitting residents and users who stay at the assisted living facility to utilize part of the excessive parking provided for the said fifty (50) unit senior citizen independent living facility; and bulk variance to permit construction of part of the parking area for the new fifty (50) unit facility to be constructed on part of the steep slope zone area. |
|--|---|

Chairman Zecchino advised the Board that information has been received concerning the validity of the notice that was served upon the interested parties by the applicant; that

the municipal clerk of the abutting municipality of Woodland Park was not served; that the notice is defective.

Chairman Zecchino inquired of Counsel Pogorelec as to the course of action to be taken. Counsel Pogorelec advised the Board that since the notice is defective, the Board does not have jurisdiction of the matter and that a motion to dismiss without prejudice is in order.

Thereupon, Comr George Foukas moved to dismiss the matter without prejudice. The motion was seconded by Comr George Silva. Voting for the motion were Comrs George Silva, 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 dismissed without prejudice 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. **SHARON KUHLM-ROME**, 161 Day Street,
Variance Block 9.18, Lot 69 – RB1 – Applicant proposes to build a two-story rear addition and first floor deck. The following variances are required:
- 1) Rear yard setback proposed at 20.13' where 35' is required.
 - 2) Right side yard setback proposed at 0' where 6' is required.
 - 3) Combined side yard setback proposed at 10.3' where 16' is required.
 - 4) Lot coverage proposed at 32.8% where 27% is permitted.

The applicant, residing at 161 Day Street, Clifton, New Jersey, was present and sworn. Also present and sworn was Robert Schuster, RA, of 98 Lincoln Avenue, Staten Island, New York, an architect. There were no objectors.

Mr. Schuster testified that the applicant proposes to build a two-story rear addition and first floor deck at the subject premises; that the applicant is seeking the following variances: rear yard setback required 35 feet and proposed 20.13 feet; right side yard setback required 6 feet and the applicant is proposing 0 feet; the combined side yard setback requirement is 16 feet, and the applicant is proposing 10.3 feet; and the lot coverage permitted is 27 percent, and the applicant is proposing 32.8 percent.

After a review of the testimony, Comr George Foukas moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs George Silva, 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. Use Variance; Variances	JBK ENTERPRISES, LLC d/b/a THE BARROW HOUSE , 1292 Van Houten Avenue, Block 34.04, Lot 29 – BB – Existing Restaurant is permitted in zone as conditional use but does not meet all required setbacks. The proposed outdoor dining area will not increase the non-conformity of the use but requires a D-3 Variance. Applicant will also seek all required variances, waivers, or other relief to permit outdoor dining at the Restaurant.
-------------------------------------	--

Angelo Cifelli, Jr., Esq., with offices at 360 Passaic Avenue, Nutley, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Joseph Haines, AIA, PP of 74 East Passaic Avenue, Nutley, New Jersey, an architect; John McDonough, LA, PP, AICP, with offices at 101 Gibraltar Drive, Andover, New Jersey, a planner. Also present and sworn was one of the applicants, Dean Maroulakos. There were no objectors.

Mr. Haines testified as an architect and stated that the restaurant is a permitted use in the zone as a conditional use; that the applicant proposes outdoor dining which will not increase the non-conformity of the use but requires a D3 use variance; that the site continues to be an appropriate use, despite the deviation from conditions imposed by the ordinance; that the applicant proposes to construct a 1,065 square feet seating area with a roof structure in the area where the outdoor dining is presently located in the rear of the building; that the occupancy proposed is 71 seats; that the facility will be open up to 10 P.M., Monday through Friday, and 11 P.M. on Saturday and Sunday; that the applicant proposes to construct a raised outdoor seating area with a roof structure.

Dean Maroulakos testified that there is a need to expand the facility to accommodate the public and provide adequate service; that there is adequate parking at the site to accommodate the clientele.

John McDonough testified as a planner and offered into evidence marked “A-1” through “A-7” which shows the tax parcel map, aerial map, land use map, zoning map, view of existing restaurant and drone view of subject site; that the temporary tent dining is to be replaced by permanent outdoor terrace dining; that the parking at the site presently is 161 parking spaces; that the ordinance requires 136 spaces; that the proposal satisfies the positive and negative criteria required for the grant of the use variance; that the site is particularly suited for the proposed use.

After a review of the testimony, Comr Michael Molner moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the D3 conditional use variance. The motion was seconded by Comr George Silva. Voting in the affirmative were Comrs George Silva, 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.

3. **MAHA MAROGI**, 46 South Parkway, Block 60.05,
Use Lot 16 – M-2 – Applicant seeks use variance and
Variance; bulk variances to convert the existing two-family,
Variances three story residential house to a three-family house
and to permit construction of a rear addition to
expand the existing building and dwelling units.
In addition to the use variance requested, the
applicant specifically requests bulk variances
for lot area and lot width (both of which are
pre-existing), for a left side yard setback and for
all other variances and/or waivers that may be
required.

This matter was presented to the Board, and at the request of the attorney for the applicant, was dismissed without prejudice because of improper notice. Thereupon, upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the matter was dismissed without prejudice 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.

4. **MAHA MAROGI**, 52 South Parkway, Block 60.05,
Use Lot 15 – RA3 – Applicant seeks use variance and
Variance; bulk variances to convert the existing two-family,
Variances three story residential house to a three-family house
and to permit construction of a rear addition to
expand the existing building and dwelling units.
In addition to the use variance requested, the
applicant specifically requests bulk variances
for lot area and lot width (both of which are
pre-existing), for a right side yard setback and
for all other variances and/or waivers that may be
required.

This matter was presented to the Board, and at the request of the attorney for the applicant, was dismissed without prejudice because of improper notice. Thereupon, upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the matter was dismissed without prejudice 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.

5. Use Variance; Variances	J & I CHIMICHANGA, LLC a/k/a EL MEXICANO CLIFTON, 1293 Main Avenue, Block 11.07, Lot 16 – BC – Variance application for expansion of existing restaurant for covered outdoor dining. The variances include rear yard proposed at 8’ and 10’ required. Left side yard proposed at 8” and 17’5” required (half the building height). Lot coverage proposed at 92% and 60% permitted. 46 parking spaces required plus one per employee required and none provided. The restaurant has an existing, nonconforming lot width and area. The Variance application is to permanently extend the current outdoor dining/drinking area further back into the parking lot area to their home site at 1293 Main Avenue, Clifton, NJ 07011, Block No. 11.07, Lot No. 16, located in the B-C business zone, Main Avenue Overlay District. Relief is requested to seek variance to extend the outdoor dining/drinking area further back into the parking lot area. The subject property is located within the Business Zone. The subject property is located east of the Main Avenue and Hilton Street intersection. The property is bound by residential properties to the west, by Main Avenue to the east, and by commercial properties to the south and north. The Existing Lot is currently developed with an existing one-story building, an existing enclosed outdoor dining area and a temporary dining area behind the building. There will be noise dampening materials added to the structure to address the noise concerns.
-------------------------------------	---

Franklin S. Montero, Esq., with offices at 451 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Pablo A. DeJesus, RA, AIA, of 839 Montgomery Street, Jersey City, New Jersey, an architect; Rodrigo Naranjo, an architect, with offices at 839 Montgomery Street, Jersey City, New Jersey; and Christian Mejia of 1293 Main Avenue, Clifton, New Jersey, the applicant. Also present and sworn were the following objectors: Luis Vera Tudela for Jamal Alazizi, 1291 Main Avenue, Clifton, New Jersey; Danny Khalaf for Jamal Alazizi, 1291 Main Avenue, Clifton, New Jersey; Tiffany Miles, 14 Luddington Avenue; Ernie Scheidemann, 1297 Main Avenue, Clifton, New Jersey; and Abdel Diab, 19 Barkely Avenue, Clifton, New Jersey.

The Board is in receipt of report of Kathryn Gregory dated August 17, 2021, and Neglia Engineering dated July 2, 2021.

Mr. Montero stated that the applicant requests approval to extend the current outdoor dining further back into a space which is currently used as a parking lot at the subject premises; that the property in question contains a one-story masonry structure and an existing outdoor seating area in the rear.

Mr. DeJesus gave testimony as an architect and described the premises in question as well as the existing and surrounding land uses; that the applicant proposes to occupy the

majority of the rear yard as a permanent outdoor dining space with a roof; that there will be an additional 72 seats proposed; that the applicant is seeking the following variances: 1. Number of parking spaces, 46 spaces required, no spaces proposed; 2. Lot coverage permitted is 60 percent, and the applicant is proposing 92 percent; 3. The rear yard setback requirement is 10 feet, and the applicant is proposing 8 feet; 4. The side yard setback requirement is 17.5 feet, and the applicant is proposing 8 feet.

There were a number of objectors who questioned the architect concerning the parking, the proximity of the proposal to the neighbor's yards; that volume of traffic generated; and noise and odors coming from the site.

At this point in the hearing, Chrmn Zecchino continued the matter to permit the applicant to amend its plans to provide more information to the Board.

Thereupon, the matter was continued by the Board until the October 20, 2021, meeting of the Board.

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 Louis DeStefano, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of LEXINGTON PARTNERS, LLC for a use variance for height and bulk variances for minimum lot area, minimum lot width, front yard setback, rear yard setback, side yard setback, both side yard setbacks, street side yard setback, lot coverage, off-street parking and loading spaces, parking aisles, lighting, and landscaping for a proposed 28 unit, 4-story multi-family residential building over parking for lack of prosecution at 340 Lexington Avenue, Block 8.22, Lots 37 and 39, was adopted. RB3

2. Upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of STYERTOWNE SHOPPING CENTER LLC for a use variance to permit conversion of half of the second floor and all of the third floor of the building in Styertowne along the ramp from Route 3 down to Bloomfield Avenue in what had formerly been the Rowe Manse Emporium building with a PLANET FITNESS health and fitness club and site plan approval at 1051 Bloomfield Avenue, Block 79.01, Lot 1, was adopted. B-D

3. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Michael Molner, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of CANAN BULUT for rear yard setback, right side yard setback, and lot coverage variances for a rear one-story addition and open rear porch at 5 Burgh Avenue, Block 11.12, Lot 15, was adopted. RB2

4. Upon motion made by Comr Michael Molner, seconded by Comr Scott Sochon, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ALFREDO MANCHEGO for variances for distance from pool and rear yard setback to construct an open gazebo attached to the right side of the house at 169 Livingston Street, Block 27.01, Lot 8, was adopted. RA2

5. Upon motion made by Comr Scott Sochon, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of DEVINDRA LALL for a variance for a driveway in front of the house that does not serve a garage at 36 Sussex Road, Block 68.08, Lot 14, was adopted. RA3

6. Upon motion made by Comr George Foukas, seconded by Comr Michael Molner, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MARTIN & DANA GOTTESMAN for a side yard setback and combined side yard setback variances to build a two-story addition at 48 Cresthill Avenue, Block 58.13, Lot 58, was adopted. RA3

Chrmn Zecchino noted for the record that the Board was in receipt of a written communication concerning the application of Clifton Donuts, LLC, vs. Clifton Board of Adjustment. There was some discussion; however, the drive-thru which was denied by the Board will still remain. The members of the Board continue their decision not to allow the drive-thru at the subject premises.

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF AUGUST 18, 2021.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **CLIFTON IL, LLC**
for premises known as: **782, 784, 810 & 818 Valley Road, Block 44.01,**
Lots 11, 14, 15, and 18
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE.**

This matter, coming on for hearing before the Board; and it appearing that the notice requirements pursuant to the statute were not satisfied by the applicant; and the defective notice affects the jurisdiction of the Board to hear the matter; thereupon, this matter **BE AND THE SAME IS HEREBY DISMISSED WITHOUT PREJUDICE.**

Resolution moved by: Comr GEORGE FOUKAS.
Seconded by: Comr GEORGE SILVA.
Affirmed by: Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF AUGUST 18, 2021.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: SHARON KUHLM-ROME for premises known as: 161 Day Street, Block 9.18, Lot 69 be and the same is hereby: GRANTED rear yard setback, right side yard setback, combined side yard setback, and lot coverage variances for a rear two-story addition and first floor deck

Testimony concerning the aforesaid application was taken by the Board at its meeting on August 18, 2021. Said testimony including the application and the 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 for a rear two-story addition and first floor deck at premises located at 161 Day Street, Block 9.18, Lot 69, which premises are located in an RB1 zone; and

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

- a. The applicant proposes to build a rear two-story addition and first floor deck at the subject premises;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 20.13 feet; the right side yard setback requirement is 6 feet, and the applicant is proposing 0 feet; the combined side yard setback requirement is 16 feet, and the applicant is proposing 10.3 feet; and the lot coverage permitted is 27 percent, and the applicant is proposing 32.8 percent;
- 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; 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; 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 to build a rear two-story addition and first floor deck at premises located at 161 Day Street, Block 9.18, Lot 69, be and the same is hereby approved and the variances for rear yard setback, right side yard setback, combined side yard setback, and lot coverage be and the same are hereby granted subject to such further governmental approvals as may be required by law and 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 MICHAEL MOLNER.
Affirmed by: Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF AUGUST 18, 2021.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JBK ENTERPRISES, LLC d/b/a THE BARROW HOUSE for premises known as: 1292 Van Houten Avenue, Block 34.04, Lot 29 be and the same is hereby: GRANTED a conditional use variance to construct a raised outdoor seating area with a roof structure.

Testimony concerning the aforesaid application was taken by the Board at its meeting on August 18, 2021. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests a D3 variance to construct a raised outdoor seating area with a roof structure at premises located at 1292 Van Houten Avenue, Block 34.04, Lot 29, which premises are located in a BB zone; and

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

- a. The applicant presently has an existing restaurant at the subject premises;
- b. The applicant proposes to construct a raised outdoor seating area with a roof structure;
- c. Based upon the applicant's architect's testimony, the proposed outdoor dining area will not increase the non-conformity of the use;
- d. Based upon the applicant's planner's testimony, the proposed 1,065 square foot raised outdoor seating area with a roof in the rear of the building satisfies the positive criteria since the use presently exists and the proposed expansion will not increase the non-conformity;
- e. The applicant has satisfied the negative criteria that provides more than sufficient parking where 136 parking spaces are required, and the applicant is proposing 161 spaces;
- f. 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; 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 to construct a raised outdoor seating area with a roof structure in the rear of the building at premises located at 1292 Van Houten Avenue, Block 34.04, Lot 29, be and the same is hereby approved and the D3 conditional use variance be and the same is hereby granted subject to such further governmental approvals as may be required by law SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL, IF REQUIRED; and 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 MICHAEL MOLNER.

Seconded by: Comr GEORGE SILVA.

Affirmed by: Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF AUGUST 18, 2021.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **MAHA MAROGI**
for premises known as: **46 South Parkway, Block 60.05, Lot 16**
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE**

This matter, coming on for hearing before the Board; and it appearing that the notice requirements pursuant to the statute were not satisfied by the applicant; and the defective notice affects the jurisdiction of the Board to hear the matter; thereupon, this matter **BE AND THE SAME IS HEREBY DISMISSED WITHOUT PREJUDICE.**

Resolution moved by: Comr LOUIS DE STEFANO.
Seconded by: Comr SCOTT SOCHON.
Affirmed by: Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF AUGUST 18, 2021.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **MAHA MAROGI**
for premises known as: **52 South Parkway, Block 60.05, Lot 15**
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE.**

This matter, coming on for hearing before the Board; and it appearing that the notice requirements pursuant to the statute were not satisfied by the applicant; and the defective notice affects the jurisdiction of the Board to hear the matter; thereupon, this matter **BE AND THE SAME IS HEREBY DISMISSED WITHOUT PREJUDICE.**

Resolution moved by: Comr LOUIS DE STEFANO.
Seconded by: Comr SCOTT SOCHON.
Affirmed by: Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.