

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, May 18, 2022. 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, ZALMAN GURKOV, MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR SCOTT SOCHON.

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 Louis DeStefano, seconded by Comr George Foukas, the Minutes of the May 4, 2022, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

1. **BOTANY VILLAGE PROPERTY LLC,**
Prelim. & 254 Dayton Avenue, Block 4.18, Lot 21
Final Major --PD1 – For preliminary and final major
Site Plan site plan approval, use variance, bulk
variance and design waiver/exception relief.
The property is located in a PD-1 Zoning
District. The Applicant seeks approval to
demolish the existing building on the Property
and construct a new mixed-use building
consisting of six (6) residential dwelling units
within three (3) stories above ground floor
commercial (restaurant/tavern) space and
related site improvements. The Applicant seeks
use variance relief pursuant to N.J.S.A. 40:55D-
70(d)(1) for a non-permitted use, as residential
use is not permitted in the PD-1 Zoning District
and a height variance pursuant to N.J.S.A.
40:55D-70(d)(6) for building height greater
than permitted (30 ft. permitted; 40 ft. proposed).
To the extent necessary, Applicant seeks a
parking variance for providing less than required
number of parking spaces and seeks a conditional
use approval or conditional use variance for not
providing parking on the same lot as the principal
use/principal structure. The Applicant further seeks
bulk variance relief pursuant to N.J.S.A. 40:55D-

70(c) with respect to (1) front yard setback less than required (15 ft. required; 0.37 ft. proposed); and (2) number of building stories greater than permitted (2 stories permitted; 4 stories proposed).

The Applicant also seeks any additional deviations, exceptions, design waivers, submission waivers, variances, use variances, conditional use variances, interpretations, continuations of any pre-existing non-conforming conditions, modifications of prior imposed conditions, and other approval reflected on the filed plans (as same may be further amended or revised from time to time without further notice) and as may be determined to be necessary during the review and processing of the Application.

This matter was previously continued by the Board to the June 1, 2022, meeting of the Board.

2. **STORAGE BLUE CLIFTON, LLC,**
 Use 550 Lexington Avenue, Block 7.07,
 Variance; Lot 1 – B-C & RB2 – Applicant is
 Variances requesting relief, if necessary, from any variances, approvals, waivers, and/or exemptions from any applicable provision of the Municipal Zoning Code of the City of Clifton necessary for approval of the application, to renovate the existing warehouse and change its use from a warehouse to a self-storage warehouse (“D” variance) plus the following bulk variances and final site plan approval:

<u>Bulk Requirements: B-C Zone (General Business District)</u>				
	<u>Permitted</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>
Lexington Ave Front Yard Setback	46 Ft.	42.32 Ft.	42.32 ft.	Existing
Minimum Front Yard Setback	5 Ft.	9.32 Ft.	9.32 Ft.	No
Minimum Rear Yard Setback	10 Ft.	RB-2 Zone	RB-2 Zone	N/A
Minimum Side Yard Setback	10 Ft.	RB-2 Zone	RB-2 Zone	N/A
Minimum Side Yard Setback (Both)	20 Ft.	N/A	N/A	N/A
Minimum Side Street Setback	5 Ft.	0 Ft.	N/A	N/A
Maximum Lot Coverage	60%	55.58%	0 Ft.	Existing
Minimum Accessory Building Side Yard Setback	3 Ft.	N/A	66.07%	Yes
Minimum Accessory Building Side Street Setback	25 Ft.	N/A	N/A	N/A
Minimum Distance to Main Building	10 Ft.	N/A	10 Ft.	Yes
			5 Ft.	Yes
<u>Bulk Requirements: R-B2 Zone R-B1 One-Family Residential Use)</u>				
	<u>Permitted</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>
Lexington Ave Front Yard Setback to (ft.)	46 ft.	B-C Zone	B-C Zone	N/A
Minimum Front Yard Setback (ft.)	25 ft.	B-C Zone	B-C Zone	N/A
Minimum Rear Yard Setback (ft.)	35 ft.	9.42 ft.	9.42 ft.	Yes
Minimum Side Yard Setback (ft.)	6 ft.	4.81 ft.	4.81 ft.	Existing
Minimum Side Yard Setback (Both)	16 ft.	N/A	N/A	N/A
Minimum Side Street Setback (ft.)	10 ft.	0 ft.	0 ft.	Yes
Maximum Lot Coverage (%)	27%	55.58%	66.07%	Yes
Maximum Accessory Building Height (ft.)	14 ft.	N/A	B-C Zone	N/A
Minimum Accessory Building Front Yard Setback (ft.)	60 ft.	N/A	B-C Zone	N/A
Minimum Accessory Building Side Yard Setback (ft.)	3 ft.	N/A	B-C Zone	N/A
Minimum Accessory Building Side Street Setback (ft.)	25 ft.	N/A	B-C Zone	N/A
Minimum Accessory Building Rear Yard Setback (ft.)	3 ft.	N/A	B-C Zone	N/A
Minimum Distance to Main Building (ft.)	10 ft	N/A	B-C Zone	N/A
<u>Off Street Parking:</u>				
<u>Use</u>	<u>Parking Requirement</u>	<u>Total Required</u>	<u>Total Proposed</u>	<u>Variance Required</u>
Retail Store and Service Establishment (Liquor Store)	1.0 Space per 250 SF of Floor Area			
Shops, Mills, Factories, Warehouses, and Storages	2 Employees but not less than 1.0 space for each 2,000 SF of Floor Area	32 Spaces	17 Spaces	Yes
Hoses (Self Storage)				(15 Spaces)

Loading Requirements:

<u>Use</u>	<u>Total Required</u>	<u>Total Provided</u>	<u>Variance Required</u>
Retail Store and Service Establishment (Liquor Store)	1.0 Loading Spaces		
Shops, Mills, Factories, Warehouses and Storage Houses (Self Storage)	3.84 Loading Spaces	2.0 Loading Spaces	Yes (3 Spaces)

Signage Bulk Table:

<u>Sign Type</u>	<u>Description</u>	<u>Ordinance</u>	<u>Permitted</u>	<u>Proposed</u>	<u>Variance</u>
Wall Sign #4	One (1) Proposed Wall Sign (Facing Seger Ave) 86.17 SF (5'-6" L x 15'-8" H)	§461-54	Max Area = $((363.60 \text{ ft} \times 15) \times (0.1)) = 545.4 \text{ S}$	86.17 SF	No (Yes- Non-Permitted Use)
Ground Sign #1	One (1) Proposed Ground Sign (Facing Lexington Avenue) 5.67 SF (1'-5" L x 4'-0" H) Each	§461-55	Max Area = $(53.10 \text{ Ft} \times 45.45 \text{ Ft}) - 98.55 \text{ Ft} \times 2 = 197.10 \text{ SF}$ Max Height = 20 Ft Max Front Yard Setback = 60 Ft	Area = 5.67 SF Height = 16 Ft Setback = 13 Ft	No No Yes

Christos J. Diktas, Esq., with offices at 596 Anderson Avenue, Cliffside Park, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: William R. Vogt, PE, of 60 Grand Avenue, Englewood, New Jersey, an engineer; Conrad J. Roncati, RA, AIA, of One Executive Drive, Fort Lee, New Jersey, an architect; George Wheatle Williams, PP, AICP, of 105 Grove Street, Montclair, New Jersey, a planner; and Lou Luglio, PE, a traffic expert, of 30 Montgomery Street, Jersey City, New Jersey. There were no objectors.

This is a continued hearing from the meeting of April 20, 2022.

The Board is in receipt of the following reports:

1. Report of planner, Nicholas A. Graviano, dated May 16, 2022;
2. Report of engineer, Neglia Engineering, dated May 11, 2022;
3. Report of Clifton Police Department dated April 21, 2022; and
4. Report of Clifton Fire Department dated April 18, 2022.

Conrad Roncati gave testimony as an architect and stated that the applicant has revised the plans from the prior hearing to include modifications to the parking lot to add an additional space and a loading space; the detached storage building was enclosed and moved to meet the required setback to the neighboring residential properties; reduction of the free-standing sign from 15 feet to 6 feet and modification to the building signage and parapets; that a number of comments in the Neglia report with regard to the enclosed storage units were discussed.

William Vogt testified as an engineer and gave testimony concerning changes to the site plan; that 32 parking spaces are required and 18 are proposed; that five loading spaces are required and three are proposed; that the lot coverage permitted is 60%, and the applicant is requesting 66.28%.

Lou Luglio gave testimony as a traffic expert and addressed the comments set forth in the Clifton Police Department report; that there is adequate parking at the site; that a maximum of eight parking spaces is required, and the applicant is proposing 18; that the peak hours of operation are between 7 AM and 9 AM and 4 PM to 6 PM with no negative impacts to the site; that other areas discussed were access and egress and parking within the site triangle of Lexington Avenue.

George Wheatle Williams testified as a planner and gave testimony as to the positive and negative criteria; that the site is particularly suitable for the proposed renovations;

that there are no negative impacts; that the proposal promotes the general welfare; that with regard to the “c” variances, the proposal does advance the purposes of zoning; that there will be no impairment of the intent and purpose of the zone plan and zone ordinance; that there will be no detriment to the public good; that the proposal satisfies a number of the goals set forth in the master plan.

In response to questions raised by the Board, Mr. Roncati stated that the hours of operation will be Monday through Saturday, 9 A.M. to 6 P.M. and on Sunday from 10 A.M. to 6 P.M.

After a review of the testimony, Comrs Louis DeStefano moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution subject to the following:

- a. The applicant complying with all recommendations set forth in the report of the Board’s planner, Nicholas A. Graviano, dated May 16, 2022;
- b. The applicant complying with all recommendations set forth in the report of the Board’s engineer, Neglia Engineering, dated May 11, 2022;
- c. Report of the Clifton Police Department dated April 21, 2022;
- d. Report of the Clifton Fire Department dated April 18, 2022;
- e. Subject to Passaic County Planning Board approval.

The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs George Silva, Zalman Gurkov, 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. Use Variance; Variance	PASSAIC CLIFTON COMMUNITY KOLLEL CONGREGATION, 409-411 Main Avenue, Block 59.03, Lot 17 – B-B – Applicant proposes to connect the existing rabbinical study facility to the first floor of the existing 2 family dwelling and utilize that 1st floor for additional studies. (The second floor would remain residential.) Applicant also proposes to expand the current study area with a 370 sq ft addition to the front structure which requires the following variances: A use variance for the expansion of the previously approved nonconforming use and the existing mixed use on the property. Front yard setback is requested for 12.70 ft where 45’ is required. In addition to the above, applicant is also seeking to extend its hours of operation. Current hours of operation are part of a previously approved application granted on 04/19/2017.
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Glenn Peterson, Esq., with offices at 1037 Route 46 East, Clifton, New Jersey, appeared on behalf of the applicant. Present and affirmed on behalf of the applicant were the following: Chaim Yosef Krause of 147 Marietta Avenue, Passaic, New Jersey; Eliyohu Schneider, engineer and architect, of 13 Tennyson Place, Passaic, New Jersey; and William J. Martin, planner, of 25 Boulevard, Westwood, New Jersey. Present and affirmed were the following parties in favor of the application: Damian Sharratt, 9 Toth Court; Tzvi Kaluzynner, 411 Main Avenue; Abraham Levenspil, 19 Swift Court; Elliott

Brester, 14 Swift Court; and Boruch Schulgasser, 291 River Road, all of the City of Clifton, New Jersey. Present and sworn were the following parties in objection to the application: Patrick Doremus, Sr., 4 Van Wagoner Avenue; and George Putykewycz, 289 South Parkway, both of the City of Clifton, New Jersey.

Mr. Peterson stated that the applicant proposes to connect the existing Rabbinical study facility to the first floor of the existing two-family dwelling and utilize the first floor for additional studies; that the second floor will remain residential; that the proposal is for a 370 square foot addition to the front of the structure; that the variances requested are: 1) use variance for a mixed use building; 2) use variance for extension of a non-conforming use; 3) front yard setback 45 feet required 12.70 feet proposed; and 4) an extension of the hours of operation which are currently 9:15 A.M. to 1:15 P.M and 2 P.M. to 6:15 P.M.; and no one at the premises before 9 A.M. and after 6:30 P.M.

The Board is in receipt of reports from Neglia Engineering dated April 27, 2022, and Nicholas A. Graviano, the Board's planner, dated May 5, 2022.

Rabbi Chaim Krause gave testimony that the applicant proposes expansion of a mixed use building at 409-411 Main Avenue; that the proposal calls for removing one existing residential dwelling unit and proposing a 370 square foot addition to the first floor dedicated to Rabbinical studies; that the second floor will contain one dwelling residential unit.

Eliyohu Schneider testified as an engineer and architect, and stated he prepared the plans for the proposed renovation and addition; he walked the Board through the plan prepared by him for the proposal; that he prepared a response letter to the engineering comments from Neglia Engineering dated April 27, 2022; that he also prepared drainage calculations.

William J. Martin testified as a planner and had marked into evidence as Exhibit "A-1" a report dated May 18, 2022, showing an overlay district, boundary, aerial view of the site, photo showing building alignment existing, photo showing building alignment proposed, and a rendering of the site by the architect. He continued to testify that the site is in a B-B zone and set forth the uses permitted; that the proposal promotes Goal 8 of the Master Plan which promotes the revitalization and enhancement of the Main Avenue Corridor as a unified pedestrian-friendly downtown business district for the community; he testified as to the hours of operation; that the relief may be granted without substantial detriment to the public good and will not impair the intent and purpose of the zone plan and zone ordinance.

There were closing statements from the interested parties in favor of the application and those objecting to the application as well as a statement from Mr. Peterson.

After a review of the testimony, Comr Zalman Gurkov moved to approve the application. The motion was seconded by Comr Louis DeStefano. Voting for the motion were Comrs Uri Jaskiel, George Silva, Zalman Gurkov, and Louis DeStefano. Voting against the motion were Comrs Michael Molner, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. There were four affirmative votes and three negative votes. Counsel Pogorelec ruled that the application was for a use variance which required five affirmative votes; that the failure of the applicant to obtain five affirmative votes is deemed an action denying the application. Thereupon, the matter was denied 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.
Use
Variance;
Variances

VK ACQUISITIONS VI, LLC, 90 Kingsland Avenue, Block 84.01, Lot 25.01 – M3 – For preliminary and final site plan, conditional use and variance approvals.

The subject property is approximately 7.09 acres in size, and is currently improved with an approximately 9,173 square foot ("SF") one story commercial building which, upon information and belief, has historically been used for automobile maintenance, repair and service. The remainder of the site is largely paved and has historically been used for automobile and other vehicular storage. It currently serves as an automobile inventory storage yard and service facility by a local automobile dealership.

The Applicant is proposing to improve and utilize the Property for the parking and/or storage of automobiles, vans (fleet type), truck/trailer parking and storage and/or equipment storage within the existing outdoor parking areas of the Property, as well as continued repair and maintenance of vehicles or equipment within the existing one-story commercial building. No changes are proposed with respect to the existing commercial building, and no new buildings are proposed. The Applicant is proposing improvements within the site which includes repairs and restriping of the existing parking lot areas, upgraded lighting and landscaping. There are four proposed parking lot striping plans included within the site plan set submitted to the Board, which include layouts for truck storage, automobile parking, van (fleet) type parking and equipment storage.

The Applicant is seeking variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) and (d/3), including a D(1) use variance and D(3) conditional use variance relief to permit the use of the Property for outdoor storage/parking of automobiles, trucks, fleet vehicles and construction-type equipment due to the fact that the uses are not deemed a permitted use in the M-3 zone and/or do not meet all of the conditional use standards set forth in the Code. The Applicant is also seeking bulk variance pursuant to N.J.S.A. 40:55D-70(c)(1) and/or (c)(2) for the following:

1. To permit the use of LED lighting in the parking lot areas where it is currently not permitted.
2. Total Off-Street Parking Associated with the Existing Commercial Building-46 spaces required, 19 parking spaces proposed (9' by 19' in dimension).

3. To permit parking, loading and drive aisles in front yards of the Property (Section 461-60E).

4. Parking, Loading and Drive Aisle Setbacks – 10' to side yard/5' to front yard required (Section 461-60F). Proposal does not meet these minimum setback requirements along the Myrtle Avenue, Kingsland Avenue and Century Drive frontages.

5. Landscaping for Interior Parking. A minimum of 20 SF of landscaping is proposed for each parking space. (Section 461-60N). Less than the minimum is proposed.

In addition to the above approvals, the Applicant requests that the application be deemed amended to include, and that the Board grant any additional approvals, variances, exceptions, or waivers determined to be necessary or desirable in the review and processing of this application, whether requested by the Applicant, the Board or otherwise.

This matter was previously continued by the Board to the June 1, 2022, meeting of the Board.

NEW HEARINGS

1. **MICHAL FRUCHTER**, 475 South Parkway,
Variance Block 58.04, Lot 3 – RA1 – Applicant is proposing to construct a one-story addition that requires a combined yard setback. 24' is required where 20' is being proposed.

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Michal Fruchter of 475 South Parkway, Clifton, New Jersey. There were no objectors.

Mr. Peterson presented the application and stated that the applicant is proposing to construct a one-story addition that requires a combined side yard setback of 24 feet where 20 feet is being proposed; that the one-story addition will be approximately 471.8 square feet.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the combined yard setback variance. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs George Silva, Zalman Gurkov, 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. **WAGUIH KHOUZAM**, 117 Abbe Lane,
Variance Block 33.09, Lot 28 – RA2 – Applicant is
proposing a deck attached to the house
which involves a rear yard setback.
Required setback is 35' where 14' is
being proposed.

The applicant, residing at 117 Abbe Lane, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he is proposing a deck attached to the house which involves a rear yard setback; that the deck is 16- by 20-feet; that the rear yard setback requirement is 35 feet, and he will be providing 14 feet.

After a review of the testimony, Comr Zalman Gurkov 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 George Silva. Voting in the affirmative were Comrs George Silva, Zalman Gurkov, 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. **JONATHAN TUBAY & SOCHILD**
Variances **PACHECO**, 180 West 3rd Street,
Block 9.08, Lot 26 -- RB1 – Applicant
is requesting to keep already constructed
deck and sliding door which exceeds
permitted lot coverage. Maximum lot
coverage of 25% permitted in the zone
and by keeping the deck 30.6% would
be existing. An additional variance for
a rear yard setback is also being requested
35' is required where 24' is being
proposed.

The applicants, residing at 180 West Third Street, Clifton, New Jersey, were present and sworn. There were no objectors.

Jonathan Tubay testified that the applicants are requesting to keep an already constructed deck and sliding door which exceeds permitted lot coverage at the subject premises; that the maximum lot coverage permitted is 25 percent, and the applicant's deck is 30.6 percent; that an additional variance is requested for a rear yard setback where the applicant proposes 24 feet, and the rear yard setback requirement is 35 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 Louis DeStefano. Voting in the affirmative were Comrs George Silva, Zalman Gurkov, 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 announced that the Board would act upon the Resolutions set forth on the Agenda:

1. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Zalman Gurkov, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of EMPIRE REALTY MANAGEMENT CORP. to demolish the ALLWOOD THEATER and replace it with three additional new retail stores and construct a three-story, 26-unit senior citizens housing development at 94-96 Market Street, Block 68.03, Lot 43, was adopted.

2. Upon motion made by Comr Michael Molner, seconded by Comr Louis DeStefano, and affirmed by Comrs Zalman Gurkov, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of MJG-MAR REALTY, LLC for a storage and distribution center for retail and wholesale of motor vehicle parts at 42 Lakeview Avenue, Block 7.05, Lot 70, was adopted.

3. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Zalman Gurkov, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of GENNARO RUBINO for a rear yard setback variance for a one-story addition at GENNARO RUBINO at 132 Rutgers Place, Block 27.11, Lot 3, was adopted.

4. Upon motion made by Comr Michael Molner, seconded by Comr George Foukas, and affirmed by Comrs Zalman Gurkov, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DENYING the application of MARJORY MITCHELL for a use variance to convert an existing 1½-story frame accessory structure into living space, changing the property from a one- to a two-family dwelling at 174 Sargeant Avenue, Block 36.01, Lot 27, was adopted.

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

Respectfully submitted,



JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF MAY 18, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: STORAGE BLUE CLIFTON, LLC for premises known as: 550 Lexington Avenue, Block 7.07, Lot 1 be and the same is hereby: GRANTED preliminary and final site plan approval with associated C and D variances for a self-storage warehouse.

Testimony concerning the aforesaid application was taken by the Board at its meetings on April 20, 2022, and May 18, 2022. 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 Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests approval for a self-storage warehouse at premises located at 550 Lexington Avenue, Block 7.07, Lot 1, which premises are located in a B-C and RB2 zone; and

WHEREAS, the applicant has applied for preliminary and final site plan approval and the following D-1 variances:

- a. Use variance for multiple uses per lot since the applicant is proposing self-storage and retail use on one lot;
- b. Use variance in that self-storage facilities are not permitted uses in the B-C zone;
- c. Use variance in that self-storage facilities are not permitted uses in the RB2 zone; and

WHEREAS, the applicant is requesting the following C variances which are existing conditions:

- a. Front yard setback of 46 feet is required and the applicant is proposing 42.32 feet;
- b. Minimum street side setback of 5 feet is required, and the applicant is proposing 0 feet;
- c. Minimum rear yard setback of 10 feet is required, and the applicant is proposing 0 feet;
- d. Minimum rear yard setback of 35 feet is required, and the applicant is proposing 9.42 feet;
- e. Minimum street side yard setback of 10 feet is required, and the applicant is proposing 0 feet;
- f. The off street parking or loading spaces, parking aisles or maneuvering areas shall not be located in any required front yard, and front yard parking is existing and proposed; and

WHEREAS, the applicant is requesting the following C variances which are conditions as a result of the applicant's proposal:

- a. Maximum lot coverage permitted is 60 percent, and the applicant is proposing 66.28 percent;
- b. 32 off-street parking spaces are required, and 18 are proposed;
- c. 5 loading spaces are required and 3 are proposed;
- d. Free-standing signs shall have the same front yard setback as required for principle structures and less than the required setback is proposed;
- e. Any structure containing a use permitted in a B or M district but not an R district and which existing as a non-conforming use may display flat signs on the wall of said structure, the aggregate of which sign shall not exceed 10% of the façade of the first story. Any illumination of such signs shall be indirect and nonintermittent; and

WHEREAS, the Board has received the following reports:

- a. Report of Nicholas A. Graviano dated May 16, 2022;
- b. Report of Neglia Engineering dated May 11, 2022;
- c. Report of Clifton Police Department dated April 21, 2022;
- d. Report of Clifton Fire Department dated April 18, 2022;
- e. Report dated March 3, 2022, from the Passaic County Department of Planning;

and

WHEREAS, the Board, has heard testimony from the applicant's experts, William R. Vogt, PE, a professional engineer; Lou Luglio, PE, a traffic expert; George Wheatle Williams, PP, AICP, a professional planner; and Conrad J. Roncati, RA, AIA, an architect, who all gave testimony in support of the application; and

WHEREAS, the applicant was represented by Christos J. Diktas, Esq.; and

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

- a. The current site consists of the Bottle Liquor store and warehouse space. The current building totals 26,433.44 square feet;
- b. The applicant proposes a 3,287 square foot addition to square off the building for a main building totaling 29,720.44 square feet; Also proposed are 17 outdoor storage units in two buildings totaling 1,700 square feet. The main building will contain a liquor store and self-storage space;
- c. Based on the testimony presented by the applicant's expert, the Board finds that the site is particularly suited for the proposed use;
- d. The applicant has satisfied the positive and negative criteria required for the grant of the use variances requested;
- e. The applicant has sustained the burden of proof for the "C" variances since they advance the purposes set forth in the Municipal Land Use Law;
- f. The variances may be granted without substantial detriment to the public good and without impairment of the intent and purpose of the zone plan and the zone ordinance;
- g. The benefits of the application outweigh the detriments, if any.
- h. The Board finds that the testimony presented by the applicant's experts is credible and supports approval of the application;
- i. The applicant has shown sufficient hardship to justify the grant of the "c" variances requested;
- j. Based upon the testimony presented by the applicant's expert, the Board concludes that the applicant has met its burden of proof, entitling it to the grant of the approvals requested; 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 as aforesaid for preliminary and final site plan approval and associated C and D variances to renovate the existing warehouse at the premises and change its use from a warehouse to a self-storage warehouse and a liquor store at premises located at 550 Lexington Avenue, Block 7.07, Lot 1, be and the same is hereby approved and the D variances and C variances as set forth herein be and the same are hereby granted SUBJECT TO THE FOLLOWING:

- A. COMPLIANCE WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF NICHOLAS A. GRAVIANO DATED MAY 16, 2022;
- B. COMPLIANCE WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF NEGLIA ENGINEERING DATED MAY 11, 0222;
- C. COMPLIANCE WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF CLIFTON POLICE DEPARTMENT DATED APRIL 21, 2022;
- D. COMPLIANCE WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF CLIFTON FIRE DEPARTMENT DATED APRIL 18, 2022; AND
- E. SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL;

and further subject to such further governmental approvals as may be required by law 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 Graviano & Gillis Architects & Planners, 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 MICHAEL MOLNER.
Affirmed by: Comrs George Silva, Zalman Gurkov, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MAY 18, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: **PASSAIC CLIFTON COMMUNITY KOLLEL CONGREGATION** for premises known as: **409-411 Main Avenue, Block 59.03, Lot 17** be and the same is hereby: **DENIED** use variance with associated "c" variances for an expansion of a mixed use building.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 18, 2022. 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 Zalman Gurkov moved to approve the application. The motion was seconded by Comr Louis DeStefano. Voting for approval were Comrs George Silva, Louis DeStefano, Zalman Gurkov, and Uri Jaskiel. Voting in the negative were Comrs Michael Molner, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. The roll call showed that there were four affirmative votes and three negative votes. The application was for a use variance which requires five affirmative votes. Pursuant to N.J.S.A. 40:55D-9, the failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application. The applicant failed to receive the five affirmative votes; thereupon, the matter was denied by operation of law as follows:

WHEREAS, the applicant requests use variance approval for an expansion of a mixed use building located at 409-411 Main Avenue, Block 59.03, Lot 17, which premises are located in a B-B zone, where the applicant is removing one of the existing residential dwellings and proposing a 370 square foot addition to the first floor and a front yard setback variance where 45 feet is required and 12.7 feet is proposed; and

WHEREAS, on April 19, 2017, the Board previously granted the applicant a use variance for more than one use on the lot, parking space variance, lot coverage variance, and preliminary and final site plan approval to permit a Rabbinical study facility, the Resolution for which is incorporated herein by reference and made a part hereof; and

WHEREAS, the applicant did produce the testimony of Rabbi Chaim Yousef Krause; Eliyohu Schneider, engineer and architect; and William J. Martin, planner, who gave testimony; and

WHEREAS, there are two objectors, Patrick Doremus and George Putykewycz, who gave testimony objecting to the application; and

WHEREAS, the Board is in receipt of reports from its planning expert, Nicholas A. Graviano dated May 5, 2022, and its engineering expert, Neglia Engineering Associates, dated April 27, 2022; and

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

- a. On April 19, 2017, the Board previously granted an application at the site for a D1 use variance for two uses on one lot and for a mixed use building containing a two-family dwelling and a Rabbinical study facility;
- b. The applicant proposes to eliminate the residence on the first floor of the two-family dwelling and utilize the same for a Rabbinical study facility;
- c. The second floor would continue to remain residential;
- d. The applicant requests approval to expand the current study area with a 370 square foot addition to the front of the structure;

e. The Board finds credible the testimony concerning noise at the site and the complaint that the proposed addition in the front yard will interfere and block the line of vision and view of the adjacent structure due to the proposed front yard setback;

f. The site is not suitable for a front addition since applicant is utilizing the first floor of the structure which was a residence and could easily utilize the second floor of said structure if there is a need for additional space;

g. The applicant has shown no special reasons to justify the expansion of the facility into the front yard setback, which does not satisfy the positive criteria for the grant of a use variance;

h. The applicant has shown no hardship to justify the grant of the front yard setback variance;

i. The detriments of the application outweigh the benefits;

j. Applicant has not satisfied the burden of proof to show that a front addition which substantially encroaches into the front yard setback where 45 feet is required, and the applicant is proposing 12.7 feet;

k. According to the report of the planning consultant, in addition to the front yard setback variance, the applicant will also require a building height variance; 10 foot parking area setback variance; a parking stall variance where 9- by 19-feet is required and 9- by 18-feet is proposed; and a parking space variance where 14 off street parking spaces are required and 12 are proposed;

l. The applicant has shown no hardship to justify the grant of the "c" variances requested;

m. The Board further finds that the applicant has shown no need for a 370 square foot addition to the front of the structure when there is sufficient space at the site which could be utilized for further Rabbinical studies by eliminating the residential use on the second floor of the premises; and

WHEREAS, the Board does not object to the use of the premises but does object only to the 370-square foot front addition and the front yard setback variance where 45 feet is required and 12.7 feet is proposed; and

WHEREAS, the Board finds from the testimony presented that the proposed front yard setback variance for the 370 square foot front addition will not be in accord with the intent and purpose of the master plan and zone ordinance due to the objections raised by the objectors; and

WHEREAS, the lack of sufficient parking and the location of the proposed front addition at the site may be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for an expansion of a mixed use building at premises located at 409-411 Main Avenue, Block 59.03, Lot 17, be and the same is hereby disapproved and the use variance and bulk variances for front yard setback, building height, parking area setback, parking stall size, and off street parking variances be and the same are hereby denied.

Resolution moved by: Comr MICHAEL MOLNER.

Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.

**Affirmed by: Comrs Michael Molner, Vice-Chrmn Gerard Scorziello, and
Chrmn Mark Zecchino**

MEETING OF MAY 18, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MICHAL FRUCHTER for premises known as: 475 South Parkway, Block 58.04, Lot 3 be and the same is hereby: GRANTED a combined side yard setback for a one-story addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 18, 2022. 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 as aforesaid to construct a one-story addition to premises located at 475 South Parkway, Block 58.04, Lot 3, which premises are located in an RA1 zone; and

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

- a. The applicant proposes to construct a one-story addition to the subject premises;
- b. The combined side yard setback requirement is 24 feet, and the applicant is proposing 20 feet;
- c. The applicant has shown sufficient hardship to justify the grant of the variance 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 for a one-story addition at premises located at 475 South Parkway, Block 58.04, Lot 3, be and the same is hereby approved and the variance for combined side yard setback be and the same is hereby granted and further subject to such further governmental approvals as may be required by law 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 Graviano & Gillis Architects & Planners, 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 VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs George Silva, Zalman Gurkov, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MAY 18, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,** that
the application of: **WAGUIH KHOUZAM**
for premises known as: **117 Abbe Lane, Block 33.09, Lot 28**
be and the same is hereby: **GRANTED rear yard setback variance for a deck**
attached to the house.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 18, 2022. 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 Zalman Gurkov moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid for a deck attached to the house at premises located at 117 Abbe Lane, Block 33.09, Lot 28, which premises are located in an RA2 zone; and

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

- a. The applicant requests approval for a deck attached to the dwelling;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 14 feet;
- c. The applicant has shown sufficient hardship to justify the grant of the variance 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 for a rear deck attached to the house at premises located at 117 Abbe Lane, Block 33.09, Lot 28, be and the same is hereby approved and the variance for rear yard setback be and the same is hereby granted and further subject to such further governmental approvals as may be required by law 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 Graviano & Gillis Architects & Planners, 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 ZALMAN GURKOV.

Seconded by: Comr GEORGE SILVA.

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

MEETING OF MAY 18, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,** that the application of: **JONATHAN TUBAY & SOCHILD PACHECO** for premises known as: **180 West Third Street, Block 9.08, Lot 26** be and the same is hereby: **GRANTED** lot coverage and rear yard setback variance for a constructed deck and sliding door.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 18, 2022. 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, Vice-Chrmn Gerard Scorziello moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid to keep an already constructed deck and sliding door at premises located at 180 West Third Street, Block 9.08, Lot 26, which premises are located in an RB1 zone; and

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

- a. The deck and sliding door presently exist at the premises;
- b. The lot coverage permitted is 25 percent, and the deck presently is 30.6 percent;
- c. The rear yard setback requirement is 35 feet, and the applicant has 24 feet;
- d. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- e. 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 keep a constructed deck and sliding door at premises located at 180 West Third Street, Block 9.08, Lot 26, be and the same is hereby approved and the variance for lot coverage and rear yard setback variance be and the same is hereby granted and further subject to such further governmental approvals as may be required by law 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 Graviano & Gillis Architects & Planners, 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 George Silva, Zalman Gurkov, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.