

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, October 19, 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, SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: NONE.

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 October 5, 2022, regular meeting were adopted with the unanimous approval of the entire Board.

REMANDED HEARING

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| 1. | JOHN RADER , 817-825 Clifton Ave., |
| Use | Block 35.06, Lot 16 – B-C – Site plan |
| Variance; | approval required to remove the existing |
| Variance; | MOONEY AUTO REPAIR GARAGE, to |
| Site Plan | enlarge the building housing the existing |
| | DUNKIN DONUTS building, to create an |
| | additional store, two vestibule entrances |
| | to the two stores and a drive-in facility. |
| | A bulk variance is required to permit the |
| | use of lighting other than the ordinance |
| | required high-pressure sodium lighting, |
| | because it is no longer manufactured. |
| | A use variance is required to permit the |
| | drive-in window. All other nonconformities |
| | are pre-existing and do not require variances. |
| | DENIED DECEMBER 2, 2022 – |
| | COURT-ORDERED REMAND. |

This matter was continued without date.

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 three- (3) story mixed-use building consisting of four (4) residential dwelling units above ground floor commercial (restaurant/tavern) space, along with 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. The Applicant further seeks bulk variance relief Pursuant to N.J.S.A. 40:55D-70(c), including:

- (1) minimum lot area less than required (2,500 sf. required; 2,279 sf. existing non-conformity to remain unchanged);
- (2) Minimum lot depth less than required (100 ft. required; 90 ft. existing non-conformity to remain unchanged);
- (3) Building height greater than permitted (30 ft. permitted; 31.5 ft. proposed);
- (4) Number of stories greater than permitted (2 stories permitted, 3 stories proposed); and
- (5) Exterior lighting fixtures not proposed to be high-pressure sodium vapor where same is required.

To the extent necessary, the Applicant seeks a parking variance for providing less than required number of parking spaces and seeks conditional use approval or conditional use variance for not providing parking on the same lot as the principal use/principal structure.

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 approvals 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 until the November 2, 2022 meeting of the Board.

2.
Use
Variance;
Variances

TFJ HAZEL LLC, 252 Hazel Street &
237 West 3rd Street, Block 16.11, Lots 1 & 2
-- RB2 – Preliminary and Final Major Site
Plan Approval, Minor Subdivision (lot
consolidation) approval, d(1) use variance,
d(1) use variance, d(5) density variance, and bulk
("c") relief to construct a three (3)-story mid-rise

(two (2) stories over parking), multi-family residential building containing fifty-four (54) dwelling units (currently proposed to contain twenty (20), one (1)-bedroom units; four (4) one (1)-bedroom plus office/den units; twenty-six (26) two(2)-bedroom units; and four (4) two (2)-bedroom plus office/den units) and resident amenities (the “Proposed Building”), along with 104 on-site parking spaces (sixty-two (62) covered/under the Proposed Building and forty-two (42) surface Parking spaces), and related site improvements (all proposed improvements collectively referenced as the “Project”) on the “Property.”

Lot 1 (+/- 71,752 square feet) is currently improved with a vacant, nonconforming manufacturing/industrial building that was formerly operated as a textile dyeing and finishing facility (International Veiling Corp.).

Lot 2 (+/- 3,500 square feet) is improved with a vacant, one-family residential dwelling. As part of the application, the existing lots will be consolidated (combined) to form a new lot consisting of +/- 75,252 square feet and the existing improvements will be removed.

The Project is proposed to be accessed by a full-movement driveway along 7th Avenue and a full-movement driveway at the intersection of 7th Avenue and West 4th Street. An on-site loading zone is being proposed for resident, delivery, and refuse collection. Proposed site improvements include, but are not necessarily limited to, an electrical transformer and associated concrete pad, grading and drainage, stormwater management, underground utilities, lighting, landscaping, a monument sign near the proposed driveway on Seventh Avenue, directional/wayfinding signage, building identification signage, electric vehicle charging stations, paving and striping, curbing, sidewalks and walkways.

The Property is in the R-B2 (Residential, One- and Two-Family and Garden Apartments) Zone District (the “R-B2 Zone”), which does not permit three (3)-story mid-rise, multi-family residential buildings.

In connection with the preliminary and final major site plan approval related to the Project, the Applicant is seeking the following variances pursuant to N.J.S.A. 40:55D-70(d), from the City of Clifton Zoning Ordinance (the “Ordinance”), as follows:

1. From Section 461-13.1.E “Use Regulations” for the R-B2 Zone - To permit a three (3)-story mid-rise, multi-family residential building in the R-B2

Zone, where three (3) story mid-rise, multi-family residential buildings are not permitted.

2. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements Residential Zone” - Minimum Lot Area per Dwelling Unit – To permit a lot area per dwelling unit of 1,393.6 square feet, where a minimum lot area per dwelling unit of 3,351 square feet is required.

In connection with the preliminary and final major site plan approval related to the Project, the Applicant is seeking the following variances pursuant to N.J.S.A. 40:55D-70(c), from the Ordinance, and if required, and/or waivers / exceptions from the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-4.14, as follows:

1. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements - Residential Zone” - Minimum Rear Yard Setback - To permit a rear yard setback (measured to the Garden State Parkway right-of-way) of 4.9 feet, where a minimum rear yard setback of 40 feet is required.

2. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements - Residential Zone” - Minimum Side Yard Setback - To permit a side yard setback of 12 feet (along Hazel Street (CR702)), where a minimum side yard setback of 20 feet is required.

3. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements - Residential Zone” - Minimum Combined Side Yard Setback - To permit a combined side yard setback of 33.6 feet (12’ as measured from Hazel Street (CR702) and 21.6’ as measured from the property line adjoining Block 16.11, Lot 17), where a minimum combined side yard setback of 40 feet is required.

4. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements - Residential Zone” - Maximum Lot Coverage of Principal Building – To permit a maximum lot coverage of 36.2%, where a maximum lot coverage of 25% is permitted.

5. From Section 461-60.1.A, “Requirements for off-street parking and loading spaces” – To permit 104 parking spaces to be provided, where 135 parking spaces are required under the Ordinance, but which 104 parking spaces satisfy RSIS requirement, which control.

6. From Section 461-42.A, “Additional requirements” - To permit pole-mounted, building-

mounted, and/or site light-emitting diode (LED) lighting fixtures, where high-pressure sodium vapor lights are required.

7. From Section 461-60.A, “Standards for parking spaces and areas” – To permit off-street parking spaces sized 9’ wide by 18’ deep, where parking spaces are required to be 9’ wide x 19’ deep under the Ordinance, but which meets RSIS requirement which control.

The Applicant also requests any other approvals, waivers, variances, deviations and/or exceptions from the Ordinance, the City of Clifton General Ordinances, and/or RSIS, including, but not necessarily limited to, any additional setback variances (front yard setback, rear yard setback, or side yard setbacks) that may result from an alternative interpretation of the Ordinance provisions relating to setbacks, all as may be determined to be required for the Project during the review and processing of the application and/or based upon an analysis of the plans and testimony at the public hearing.

At the request of the attorney for the applicant, this matter was continued to the November 16, 2022, meeting of the Board.

3.
Variance

JAIME & VIVIANA BORJA, 67 Huemmer Terrace, Block 64.01, Lot 17 – RA2 –
Applicant is seeking variance relief from the Township Ordinance Section 461-47A for permission to construct a fence in excess of the height mandated by the said ordinance. The proposed fence is 6 ft. in height where 4 ft. is permitted. The fence is along the perimeter of the property.

This matter was previously continued by the Board to the November 2, 2022 meeting of the Board.

4.
Use
Variance;
Variances

522 VALLEY ESTATES LLC, 522 Valley Road, Block 32.01, Lot 12 – Steep Slope District –
Preliminary and final major site plan approval, use variance, bulk variance and design waiver/exception relief (the “Application”) by 522 Valley Estates LLC (the “Applicant”) with respect to property having a street address of 522 Valley Road, Clifton, New Jersey 07013, and being designated as Block 32.01, Lot 12 on the City of Clifton Tax Map (the “Property”). The Property is located in the Steep Slope Zoning District. The Applicant seeks approval to demolish the existing building and raze the Property and construct a new residential complex consisting of 21 townhouse dwelling units within three (3) separate buildings, along with

related site improvements, including but not limited to parking, landscaping and lighting. The Applicant seeks use variance relief pursuant to N.J.S.A. 40:55D-70(d)(6) for building height greater than permitted (35 ft. permitted; 42.75 feet proposed). The Applicant also seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70(c), including: (1) Number of stories greater than permitted (3 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 approvals 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.

At the request of the attorney for the applicant, this matter was continued to the December 7, 2022, meeting of the Board.

5.
Variance

1041 PAULISON LLC, 1041 Paulison Avenue, Block 19.03, Lot 8 – M1 – Applicant is proposing to use this property as an auto accessory installation premises consisting of two bays for which a vehicle would remain for multiple days receiving installation of auto accessories. The applicant requests the following variances:

 - 1) Use variance for the proposed use;
 - 2) A variance for the left side yard where 5.1 ft. Is provided and 10 ft. is required.
 - 3) A variance for parking as may be required.
 - 4) A variance for parking space setbacks.

At the request of the attorney for the applicant, this matter was continued to the November 16, 2022, meeting of the Board.

6.
Use
Variance;
Variances

MJG-MAR REALTY, LLC, 42 Lakeview Ave., Block 7.05, Lot 70 – BC – This is an application for a Use Variance to permit use of the former GARDEN PLAZA BOWLING ALLEY for a storage and distribution center for the sale of motor vehicle parts, retail and wholesale. The sale at wholesale is a use not permitted in the B-C zone. It is also an application for bulk variances to permit the continuation of bulk variances as follows:

 - 1) Front yard setback (20 feet required; 0 feet existing and proposed);
 - 2) Side yard setback (20 feet required; 7.1 feet existing and proposed);
 - 3) Rear yard setback (15 feet required; 0 feet existing and proposed);
 - 4) Lot coverage (60% required; excess of 60% is

- existing and proposed);
- 5) Off street parking or loading spaces, parking aisles, maneuvering areas not to be located within 10 feet of any rear lot line or within 5 feet of any other lot line and adequately landscaped. Existing and proposed conditions do not conform to these requirements, but some landscaping is proposed; 1 loading space required (no loading spaces are existing or proposed).
- 6) Variances required because 6 parking spaces are required for warehouse use only and are provided, but 5 parking spaces are required for retail use and none are provided.

This matter was previously continued by the Board to the November 2, 2022 meeting of the Board.

7.
Use
Variance;
Variances

WALBRI PROPERTIES, LLC, 3-7 Walnut Street, Block 37.04, Lots 9 and 13 – M2 –
An Application for development has been submitted for property located at 3-7 Walnut Street, Clifton, NJ; and also located at 9-11 Walnut Street, City of Passaic, NJ, Block 3245.03, Lot 10, Zone designation as C.

The purpose of the Application and the Project is for the development of the property is to combine the use of all 3 lots, to demolish the old pavement on the properties, and to construct a new 7,442 square foot 1 story 33.6 foot height commercial flex multi-tenant warehouse building on what is currently identified as Lot 9 and part of Lot 13, with 9 parking spaces, including 1 handicapped space on the remaining part of Lot 13 and on Lot 10.

The application in question requires the following approval/relief from the City of Clifton Zoning Board of Adjustment as per the Clifton Zoning Ordinance:
Variances for:
1) Front yard where 20 feet is required and 3 feet is proposed;
2) Side yard where 16.8 feet is required and 4 feet is proposed;
3) Rear yard where 40 feet is required and 4 feet is proposed;
4) Parking area setback where 5 feet is required and 0.3 feet is proposed;
5) A variance from the terms of City of Clifton Ordinance Code 461-36 E 3&4 which provides that warehouses shall not be located on a lot, any part of which is within 100 feet of a residence district boundary; and the use shall meet the area, height and bulk requirement for industrial plants in an M-2 District and shall meet the off-street parking, loading and unloading and

buffer requirements of this chapter as it pertains to industrial plants in an M-2 District;
6) For site plan approval; and
7) Granting all other relief, waivers, variances and approvals that may be required or may be raised during the course of the hearing.

The application in question requires the following approval/relief from the City of Passaic Planning Board as per the Passaic Zoning Ordinance:
Variances for 1] For site plan approval; and
2] Granting all other relief, waivers, variances and approvals that may be required or may be raised during the course of the hearing.

This matter was previously continued by the Board to the November 16, 2022 meeting of the Board.

8.
Use
Variance;
Variances
- EMB 561 LLC**, 561 Van Houten Avenue, Block 43.04, Lot 8 – BC – Preliminary and Final site plan approval; use variance approval; bulk variances from Section 461-13 for pre-existing non-conformities consisting of minimum front yard and minimum side yard/ each, which none of the pre-existing non-conformities are being increased or changed; and any other variance, waiver, or other relief, if necessary, from the requirements of the Clifton Zoning code to permit the Applicant to convert the existing mixed use building into a multi-family apartment dwelling consisting of 2 one-bedroom apartments on the first floor and 4 two-bedroom apartments on the second floor.

This matter was previously continued by the Board to the November 16, 2022 meeting of the Board.

NEW HEARINGS

1.
Use
Variance;
Variances
- 833 CLIFTON AVE PARTNERS, LLC**, 833 Clifton Avenue, Block 35.07, Lot 1 -- BC – Preliminary and final site plan approval, use variance, bulk variances and exterior LED lighting. The applicant

seeks approval to construct a 3-story residential apartment building containing 26 one-bedroom units. Any and all additional variances that may be required.

At the request of the attorney for the applicant, this matter was continued to the November 2, 2022 meeting of the Board.

2.
Use
Variance;
Variances
- JAI SAI BABA, LLC**, 1025 Main Avenue, Block 12.26, Lot 19 – BC – Amended site plan for Preliminary and Final Site Plan approval and a use variance pursuant to N.J.S.A. 40:55D-70(d) to permit the construction of a new mixed-use building consisting of a liquor store on the ground floor and three residential units on the second floor. This application was previously approved by the Board on February 17, 2021. The amended site plan seeks to enlarge the commercial space and eliminate any on-site parking. Applicant also seeks variance relief pursuant to N.J.S.A. 40:55D-70(c) as to minimum front yard, minimum side yards, maximum lot coverage and off-street parking. The Applicant is also seeking such additional or other variances, exceptions, approvals, permits, waivers or relief from or pursuant to the Ordinance, including waivers of design standards and/or submission requirements, as may be determined to be necessary to develop the Premises in the manner indicated in the application, plans and materials.

Bianca P. Pereiras, Esq., with offices at 1116 Summit Avenue, Union City, New Jersey, appeared on behalf of the applicant. Present and sworn was Manuel J. Pereiras, AIA, architect, with offices at 1116 Summit Avenue, Union City, New Jersey. Also present was the applicant, Paresh Patel of 45 Sycamore Street, Paramus, New Jersey. There were no objectors.

Ms. Pereiras stated that the applicant was previously before the Board with an application that was granted on February 17, 2021 for a mixed use building with a liquor store on the ground floor and three residential units above; that the applicant now proposed to remove four parking spaces; that the applicant will contribute to the Main Avenue Overlay parking trust.

Mr. Pereiras testified as an architect as to the modifications; that the applicant has realized that the four parking spaces are limiting operations of the liquor store; that the liquor store has a hardship in that it needs space for a cooler; that nothing has changed on the second floor from the previous application; that the operator of the liquor store needs the square footage; that parking is not an issue in the neighborhood, there is no difficulty parking and there is plenty of on-street parking in the area.

The Board opined that one of the reasons the Board granted the previous application was because the applicant did supply parking spaces for the proposed tenants at the site.

Mr. Pereiras testified that the applicant would like to propose a revision removing two parking spaces and keeping two parking spaces; that in the original application, there

were four spaces proposed--one garage and three on-site parking spaces; that the applicant will remove the two parking spaces at the corner.

Mr. Patel stated that he has been in business for 20 years; that the storm Ida destroyed his store; that he is excited to open again, that he thanks the Board for its consideration.

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 with the following stipulations:

1. That the Board was granting preliminary site plan at this time, and the applicant must come back before the Board for final site plan approval;
2. That the applicant must comply with all recommendations regarding the Sylvan Avenue side façade from the Board's planner, Nicholas Graviano, and comply with the report of Graviano & Gillis dated October 15, 2022;
3. That the applicant must comply with all recommendations from the Board's engineer, Neglia Engineering;
4. That the applicant will keep two on-site parking spaces off of Sylvan Avenue;
5. That the applicant will pay into the Main Avenue Overlay parking trust; and
6. Subject to Passaic County Planning Board approval.

The motion was seconded by Comr Michael Molner. Voting for approval were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting in the negative was Comr George Foukas. By a six to one 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

1. Upon motion made by Comr Louis DeStefano, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs George Silva, Scott Sochon, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of BARNES KORNER, LLC for d(1) use variance for two principal uses (restaurant and residential), bar and restaurant in RB2 district, and mixed-commercial & residential building in BC zone and "c" variances for minimum lot width, front yard setback, rear yard setback, street side front yard setback, maximum lot coverage, front yard setback, side yard setbacks and combined side yard setback, and off-street parking to create a party room and a studio apartment on the second floor of an existing mixed use building at 615 Van Houten Avenue, Block 43.02, Lot 1, was adopted.

2. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of PORTUGESE TAVERN STEAK HOUSE CORP. for preliminary and final site plan approval with associates "c" and "d" variances to erect two additions for a take-out area and improved ADA bathrooms at 503 Crooks Avenue, Block 9.03, Lot 8, was adopted.

3. Upon motion made by Comr Michael Molner, seconded by Comr George Silva, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DENYING the application of LASZLO NOVAK for variance for a 6-foot-high solid fence in the rear of the home along the left side of the property at 144 Orchard Drive, Block 78.01, Lot 54, was adopted.

4. Upon motion made by Comr Michael Molner, 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 Resolution GRANTING the application of LINDA SILUK for rear yard setback variance to build a rear deck at 93 Sherwood Street, Block 25.06, Lot 5, was adopted.

5. Upon motion made by Comr Michael Molner, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of DWAYNE FRANCIS & JANELLA NICHOLAS-FRANCIS for variances for rear yard setback to erect a rear addition at 10 West Seventh Street, Block 16.15, Lot 18, was adopted.

6. Upon motion made by Comr Scott Sochon, seconded by Comr George Silva, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOSEPH SIA for use variance for an expansion of an existing, non-conforming use and side yard setback and rear yard setback variances for a one-story addition at 669 Broad Street, Block 34.05, Lot 21, was adopted.

7. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of KIMBERLY DUNHAM for front yard, side yard, and combined yard setback variances for a second floor addition at 132 Friar Lane, Block 46.03, Lot 28, was adopted.

8. Upon motion made by Comr Scott Sochon, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of GITY IDELS for front yard, rear yard, and total lot coverage variances to erect a second story addition at 140 South Parkway, Block 60.04, Lot 5, was adopted.

9. Upon motion made by Comr George Foukas, seconded by Comr George Silva, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOEL OCHOA for rear yard setback variance to erect a second story addition at 99 Larkspur Lane, Block 40.05, Lot 48, was adopted.

10. Upon motion made by Comr Scott Sochon, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs George Silva, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of KEN LOWY for front yard, side yard, combined side yards, and maximum lot coverage variances to erect a second floor addition at 60 Lehigh Avenue, Block 70.03, Lot 54, was adopted.

11. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr George Silva, and affirmed by Comrs Uri Jaskiel, George Silva, Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of HACI BABA BAKERY LLC for d(3) conditional use variance approval with associated “c” variances to occupy the majority of an existing warehouse/commercial building with a 53 seat bakery establishment at 1639 Main Avenue, Block 9.06, Lot 6, was adopted.

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF OCTOBER 19, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JAI SAI BABA, LLC for premises known as: 1025 Main Avenue, Block 12.26, Lot 19 be and the same is hereby: GRANTED preliminary site plan approval and variances for front yard setback, maximum lot coverage, rear yard setback, street side yard setback, side yard setback, parking, and 50% fenestration to construct a mixed-use building with a ground-level liquor store and three apartments on the second floor.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 19, 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 at premises located at 1025 Main Avenue, Block 12.26, Lot 19, which premises are located in a BC – Main Avenue Overlay 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 was previously approved use variance and bulk variances to construct a new mixed-use building consisting of a liquor store on the ground floor and three residential units on the second floor on February 17, 2021 by the Clifton Zoning Board of Adjustment;
- b. The findings and conclusions set forth in the Board's Resolution of February 17, 2021 are incorporated herein by reference and made a part hereof;
- c. The applicant new seeks to expand the building and eliminate all off-street parking spaces;
- d. A variance is required for front yard setback where 5 feet is required and 0 feet is proposed;
- e. A variance is required for maximum lot coverage where 60% is required and 87.37% is proposed;
- f. A variance is required for rear yard setback where 10 feet is required and three feet is proposed;
- g. A variance is required for street side yard setback where 5 feet is required and 0 feet is proposed;
- h. A variance is required for side yard setback where one-half of the building height is required (14.7 feet) and three (8) feet is proposed;
- i. A variance is required for parking where 18 off-street parking spaces are required and 2 are proposed;
- j. A variance is required in that 50% fenestration is required on Main Avenue and less than 50% is proposed;
- k. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- l. 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 preliminary amended site plan approval construct a mixed use building with a ground-level liquor store and three apartments on the second floor at premises located at 1025 Main Avenue,

Block 12.26, Lot 19, be and the same is hereby approved and the variances for front yard setback, maximum lot coverage, rear yard setback, street side yard setback, side yard setback, 2 off-street parking spaces, and 50% fenestration be and the same are hereby granted further subject to such further governmental approvals as may be required by law and further subject to the following stipulations:

A. That the Board was granting preliminary site plan at this time, and the applicant must come back before the Board for final site plan approval;

B. That the applicant must comply with all recommendations regarding the Sylvan Avenue side façade from the Board’s planner, Nicholas Graviano, and comply with the report of Graviano & Gillis dated October 15, 2022;

C. That the applicant must comply with all recommendations from the Board’s engineer, Neglia Engineering;

D. That the applicant will keep two on-site parking spaces off of Sylvan Avenue;

E. That the applicant will pay into the Main Avenue Overlay parking trust; and

F. Subject to Passaic County Planning Board approval.
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 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 MICHAEL MOLNER.

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