

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, November 2, 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 ZALMAN GURKOV, SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR GEORGE SILVA.

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 19, 2022, regular meeting were adopted with the unanimous approval of the entire Board.

REMANDED HEARING

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| 1.
Use
Variance;
Variance;
Site Plan | JOHN RADER , 817-825 Clifton Ave.,
Block 35.06, Lot 16 – B-C – Site plan
approval required to remove the existing
MOONEY AUTO REPAIR GARAGE, to
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. |
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This matter was continued without date.

CONTINUED HEARINGS

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| 1.
Prelim. &
Final Major
Site Plan | BOTANY VILLAGE PROPERTY LLC ,
254 Dayton Avenue, Block 4.18, Lot 21
--PD1 – For preliminary and final major
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 |
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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.

Jason R. Tuvel, Esq., with offices at One University Plaza Drive, Hackensack, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Matthew Flynn, PP of Donohue Associates with offices at 101 Gibraltar Drive, Morris Plains, New Jersey, a planner. Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of objectors Mr. and Mrs. Vidal. Present were the following objectors: Gloria & Miguel Vidal, 248-250 Dayton Avenue; Louise Rossi, 574 Mt. Prospect Ave.; Anna Rossi of 138 Sycamore Rd., Roger Rossi, 138 Wagner Place; Miguel Vidal, Donira Lopenica, 283 Parker Ave.; and Bryan LoRe, 68 Lake Avenue; and Daniel Treues, 256 Dayton Ave., all of the City of Clifton, New Jersey, some of whom were sworn to give testimony.

This is a continued hearing from the meetings of July 20, 2022 and September 21, 2022.

The Board is in receipt of reports from its engineer, Neglia Engineering, dated September 28, 2021 [sic], revised July 15, 2022 and revised September 15, 2022; and from its planner, Graviano & Gillis, dated July 8, 2022 and updated September 15, 2022.

Mr. Tuvel stated that at the previous meeting, the applicant concluded traffic, architect, and engineering testimony; that the application was for a mixed use three-story building with 4 residential units on the second floor and a restaurant/tavern on the first floor; that previously, there were 6 units and four stories; that the applicant has reduced the plans from its original plan based on the Board's professionals and neighborhood residents' concerns.

Mr. Flynn testified as a planner and identified as "A4" an 8 piece exhibit showing maps and photographs; dimensions of similar-size properties in the neighborhood; identified 16 three-story buildings in the neighborhood on Parker and Dayton Avenues; compared previous building to proposed building; that the lot is vacant; that lot coverage is low and below permitted; that the residential component is good and blends with the neighborhood; that the visual impact is good in the neighborhood, that the property is less dense than what is permitted at the site; that in the PDI zone, no parking is required; he set forth permitted uses in the zone; the application supports the master plan based on the area; that the streetscape is similar to the previous use which addresses site suitability and particularly suited; that the traffic expert addressed the public parking and on-street parking; that the application boosts businesses; the mixed use is compatible, an effective land use; that the engineer testified as to safety and efficiency of the residential units, visual compatibility, mixed use in areas, history of Botany Village, residential and non-residential co-exist; that the special reasons are revitalize a vacant lot, site suitability, support other uses, housing, diversify, aesthetics; differences between previous use and proposed use; benefits outweigh detriments; availability of public parking; density and height compatible; storm water management adequate; no substantial detriment to zone plan.

In objecting to the application, Mr. Carlet questioned the length of the walkway; how many seats were in the previous bar; square footage of previous building. Mr. Flynn was not familiar with the interior, only the exterior of the former building.

Mr. Carlet expressed concerns with the overuse of the proposal; regardless of the fact that a parking variance is not required, the effect the extra parking required for the residential uses would have on the area should be taken into consideration; effect on quality of life to residents; special reasons not met by applicant; not justified due to parking.

Objector Roger Rossi testified that the applicant's experts were misinformed about the previous use and gave specifics; parking is a problem in the area; no additional disability parking; the effect of parking for the proposed residential would have on small businesses who need parking.

Several objectors testified as to quality of life issues with safety, parking, illegal parking, increase in garbage, increase in noise, no privacy for neighbors, outdoor dining, hours of operation; overcrowded, sanitation, overuse will bring down quality of life with no parking; concerns about the entertainment license; that the plan should be scaled back.

In closing, Mr. Tuvel stated that the application is consistent with the zone ordinance and master plan for Botany Village; it is a permitted use; the proposal is under lot coverage, could go bigger; that he recognizes the parking concerns of the objectors, but the Board is not here to consider parking in this zone; that special reasons are that the municipal land use law is advanced; revitalize vacant property; promote aesthetics; efficient use of land; that the applicant will address noise and will comply with Clifton's

noise ordinance; that the garbage will be by a private hauler 3 times a week; that they will abide by the Health Department recommendations; that concerns about the entertainment license fall to the Clifton City Council; that the applicant will agree to a post-occupancy review regarding lighting and garbage to satisfy the residents' concerns; that his experts testified traffic is minimal during peak hours; that the applicant has complied with the Board's expert planner and engineer recommendations and will abide by any further recommendations.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application, recognizing the objector's concerns, and instructed the Counsel Secretary to prepare the proper Resolution with the following stipulations:

1. Subject to compliance with reports and recommendations of Neglia Engineering Associates and Graviano & Gillis;
2. Subject to a post-occupancy review regarding lighting and garbage and recycling disposal; and
3. Subject to applicant engage a private hauler 3 times a week for garbage and not before 7 A.M.

The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

2. **TFJ HAZEL LLC**, 252 Hazel Street & 237 West 3rd Street, Block 16.11, Lots 1 & 2
Use -- RB2 – Preliminary and Final Major Site
Variance; Plan Approval, Minor Subdivision (lot
Variances 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.

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

3. **JAIME & VIVIANA BORJA**, 67 Huemmer Terrace, Block 64.01, Lot 17 – RA2 –
Variance 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.

Chrmn Zecchino read into the record a request by Alfred V. Acquaviva, Esq., attorney for the applicant, to withdraw the application without prejudice.

Thereupon, upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed with the unanimous approval of the entire Board, this matter was dismissed without prejudice in the form as more fully appears at the end of these Minutes.

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

4. **522 VALLEY ESTATES LLC**, 522 Valley Road, Block 32.01, Lot 12 – Steep Slope District –
Use Preliminary and final major site plan approval,
Variance; use variance, bulk variance and design waiver/
Variances 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.

This matter was previously continued by the Board 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.

This matter was previously continued by the Board 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.

Frank A. Carlet, Esq. with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Joseph Donohue, engineer and architect, with offices at 210 Summit Avenue, Montvale, New Jersey; and Peter Steck, planner, 80 Maplewood Avenue, Maplewood, New Jersey. Also present was Emanuel Marques, 120 Forest Way, Essex Fells, New Jersey, owner of the applicant. Present and previously sworn was Objector Michael Murphy, 729 Van Houten Avenue, Clifton, New Jersey.

This is a continued matter from the meeting of September 21, 2022.

Mr. Carlet stated that the premises were the former Garden Plaza Bowling Alley; that the proposal is for storage and distribution of retail and wholesale motor vehicle parts; he reviewed the variances required.

Mr. Donohue testified as an engineer as to the site plan; existing conditions on site and existing, non-conformities; that the proposal will renovate the existing building, make improvements to the parking and landscaping; reduce impervious coverage; addressed 7 space parking requirements; and one box truck delivery per day.

Objector Murphy questioned how the 7 parking spaces are calculated and questioned if the "line" between the retail and wholesale is movable; if the site could be converted to entirely wholesale or retail in the future; that the loading dock is blocked by the parking spaces; that there are no ADA handicap spaces; delivery drivers at the site parking; overuse of the site; and use too intense for the site; entered O-1 in evidence showing Wilson Auto Parts.

Mr. Marques testified that deliveries are made early morning by box truck once a day; number of employees and drivers; that delivery drivers are in and out; that he has seven other successful locations and knows how to run this business.

Mr. Steck testified as a planner and distributed a 4-page handout to the Board showing aerial photos, pictures of the site, diagram of the site plan with architectural renderings; that the lot is irregular in shape; that the site has been vacant a couple of years; that the applicant addresses landscaping, fixing parking, and re-painting the exterior; that the issue is that warehouse/distribution is not permitted in the BC zone, but the property abuts on two edges the M-2 zone which does allow warehouse use; that parking is existing on the site and is allowed on-street in front of the building and on the sides; that the master plan encourages rehabilitation; he identified non-conforming uses in the area; that the site was already developed as a non-conforming use; that the site meets special reasons; that this use fits and accommodates the existing uses; that there is a low parking demand for this use; that the application advances use of land; that the small modifications are improvements to the area; that the site is appropriate for this location, it abuts an M-2 zone; that the visual design is an improvement of the area; it is efficient use of land; that this property with limited parking fits the use; particularly suited; no substantial detriment or impairment of zone plan; low traffic and parking, on-street parking, encourages use of vacant building; municipal land use law advanced; no real impact on land use of abutting properties.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comr Louis DeStefano and Vice-Chrmn Gerard Scorziello. Voting against approval were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Chrmn Mark Zecchino. There were two affirmative votes and five negative votes. The application is for a use variance which requires five affirmative votes. Counsel Pogorelec announced that the application was denied by operation of law and called for a new motion.

Thereupon, Comr Michael Molner moved to deny the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr George Foukas. Voting for denial were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Chrmn Mark Zecchino. Voting against denial were Comrs Louis DeStefano and Vice-Chrmn Gerard Scorziello. By a five to two vote, the motion carried, and 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.

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.

Chrmn Zecchino read into the record a communication from John A. Conte, Esq., the attorney for the applicant, requesting that the matter presently scheduled for November 16, 2022 be carried to the December 7, 2022 meeting. Thereupon, the Board carried the matter to the December 7, 2022 meeting of the Board.

9.
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.

Chrmn Zecchino read into the record a communication from Glenn Peterson, Esq., requesting that the matter be adjourned to November 16, 2022. Thereupon, the Board carried the matter to the November 16, 2022 meeting of the Board.

NEW HEARINGS

1.
Variance
- FAUSTO ORTEGO**, 29 Abbe Lane, Block 27.12, Lot 6 – RA2 – The applicant is proposing a 5’ solid fence along the Grove Street side of the property where 4’ 50% open is required.

The applicant and his wife, residing at 29 Abbe Lane, Clifton, New Jersey were present and sworn. There were no objectors.

Mr. Ortego testified that he requests approval for a 6-foot-high solid fence. Chrmn Zecchino stated that the application is for a 5-foot-high solid fence. The applicant agreed that he would seek a 5-foot-high solid fence and not a 6-foot-high solid fence.

The applicant further testified that he requires the fence for privacy and safety; that the property is on a slope; that his neighbor has a similar approved fence.

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. The motion was seconded by Comr Zalman Gurkov. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

2. **LIGIA FILION**, 33 Clinton Avenue,
Variance Block 12.23, Lot 7 – RB1 – The applicant is proposing to add a driveway to the right side of the home which requires the following variance:
1) Side yard setback proposed at 0' where 5' is required.

The applicant, residing at 33 Clinton Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that she requests variance approval to add a curb cut and driveway to the right side of the property at the property line; that she proposes 0 feet where 5 feet is required; that almost all the driveways in the neighborhood are similarly to the property line.

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. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

3. **ANDREA & JEFFREY HOLM**,
Variance 10-12 Mt. Washington Drive, Block 32.08, Lot 14 – RA3 – The applicant is proposing an addition to the home which requires the following variance:
1) Rear yard setback proposed at 30'

where 35' is required.

The applicants, residing at 10-12 Mt. Washington Drive, Clifton, New Jersey, were present and sworn. There were no objectors.

Andrea Holm testified that she requests variance approval for an addition to extend the kitchen in the rear yard; that the rear yard setback is proposed at 30 feet where 35 feet is required.

After a review of the testimony, Comr George Foukas stated that the addition is de minimis, moved to grant the application, and instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

4. **KALMAN FRIEDMAN**, 462 South
Variances Parkway, Block 58.01, Lot 7
-- RA1 – The applicant is proposing to
rebuild an existing shed exactly as is
which requires the following
variances:
1) Side yard setback proposed at 0.56'
where 3' is required;
2) Rear yard setback proposed at 1.61'
where 3' is required.

The applicant, residing at 46 South Parkway, Clifton, New Jersey, was present and affirmed to give testimony. There were no objectors.

Mr. Friedman testified that he requests variance approval to replace an existing shed that is rotted; that he will replace the shed in the exact same location and size; that the side yard proposed is 0.56 feet where 3 feet is required; that the rear yard setback proposed at 1.61 feet where 3 feet is required.

After a review of the testimony, Comr Michael Molner moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

5. **ABRAHAM GHANOONI**, 145 Allwood
Variances Place, Block 57.01, Lot 44 – RA3 –
The applicant is proposing a two-story
addition which requires the following
variances:

- 1) Rear yard setback proposed at 15.52' where 35' is required;
- 2) Lot coverage proposed at 28.4% where 27% is required;
- 3) Proposed driveway not permitted in front of house.

The applicant, residing at 145 Allwood Place, Clifton, New Jersey, was present and affirmed to give testimony. There were no objectors.

The applicant stated that the property is on a corner lot by Latteri Park; that he proposes a two-story addition to increase the square footage; that he will convert the attached garage to living space/home office; that he will upgrade the premises; that he requires rear yard setback variance proposed at 15.52 feet where 35 feet is required; that he requires a lot coverage variance proposed at 28.4% and 27 % is required; that a driveway is proposed in front of the house not serving a garage.

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. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

6. **DAWN JOHNSON**, 119 William Street, Block 72.05, Lot 14 – RB2 – The applicant is proposing to amend her previously approved 12' wide 10' deep deck to now include a covered roof and screening which requires the following variances:
- 1) Right side yard setback proposed at 2' where 6' is required;
 - 2) Left side yard setback proposed at 3' where 6' is required;
 - 3) Combined side yard setback proposed at 5' where 16' is required.

The applicant, residing at 119 William Street, Clifton, New Jersey, was present and sworn. There were no objectors.

Ms. Johnson testified that she received variance approval for her rear deck; that she wants to cover the deck with a roof and screen the deck in; that the deck will not be enclosed; that she requires a right side yard setback variance where 2 feet is proposed and 6 feet is required; left side yard setback variance where 3 feet is proposed and 6 feet is required; that combined side yard setback is proposed at 5 feet where 16 feet is required.

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. The motion was seconded by Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the

motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

7. **JASMITA & RAHUL KAPOOR,**
Variances 18 Barberry Lane, Block 53.09, Lot 2
-- RA2 – The applicant is proposing a two-story addition as well as an extension to the existing attic to a full second floor which requires the following variances which are all existing nonconforming:
1) Left side yard setback at 5.38’ where 6’ is required;
2) Front yard setback at 24.28’ where 30’ is required;
3) Front porch proposed at 20.25’ where a minimum of 21’ is required.

The applicant, Jasmita Kapoor, residing at 18 Barberry Lane, Clifton, New Jersey, was present and sworn. Present and sworn on behalf of the applicant was Souleymane Dembele of 24 Commerce Street, Newark, New Jersey, an architect. There were no objectors.

Mr. Dembele testified that the property is on a corner lot; that the applicant is proposing a two-story addition as well as extension to the existing attic and a front porch; that variances are required for left side yard where 5.38 is proposed and 6 feet is required; front yard setback where 24.28 feet is proposed and 30 feet is required; and front porch where 20.25 feet is proposed and 21 feet is required.

Ms. Kapoor affirmed the testimony given by Mr. Dembele.

After a review of the testimony, Comr Scott Sochon moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

8. **SHAMAI GOLDBERG,** 25 Edgewood
Variances Avenue, Block 58.13, Lot 22 – RA3 –
The applicant is proposing a second-floor addition which requires the following variances:
1) Lot coverage proposed at 32% where 27% is required;
2) Right side yard setback proposed at 5.9’ where 6’ is required;
3) Combined side yards proposed at

12.8' where 16' is required;
4) Basement is more than 50% above
grade and proposed dormers are
creating 3 ½ stories where 2 stories
are permitted.

The applicant, residing at 81 Howard Avenue, Passaic, New Jersey, was present and affirmed to give testimony. Present on behalf of the applicant was Mirek Lewandowski of 47 Walnut Street, Sussex, New Jersey, an architect.

The applicant stated that he requests approval to erect a second floor addition; that he requests a lot coverage variance.

Mr. Lewandowski testified as an architect and stated that the premises is a one-family; he testified as to the present use and proposed use; that the applicant proposes two-story rear addition, second floor addition, and finished attic with a one-car garage.

Chrmn Zecchino stated that the plans do not show a finished attic.

The applicant stated that the wrong plans were submitted to the Board, that he wanted to have a dormer and a finished attic; that he wants an open floor plan to enjoy the view from the attic; that there is no bedroom or bathroom in the attic; that the basement is not finished, it is solely for storage; that the attic will be heated and air-conditioned and used as a recreation room or office.

Mr. Lewandowski testified that the applicant has a large family and needs more space; that the additions will enhance neighborhood values; that the applicant will agree to an unfinished attic and will take the dormers out.

After a review of the testimony, Comr Scott Sochon moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval with the stipulation that the attic will stay unfinished and the dormers are out of the plans. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

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

RESOLUTIONS

1. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Michael Molner, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JAI SAI BABA, LLC for 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 at 1025 Main Avenue, Block 12.26, Lot 19, 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 NOVEMBER 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: BOTANY VILLAGE PROPERTY LLC for premises known as: 254 Dayton Avenue, Block 4.18, Lot 21 be and the same is hereby: GRANTED preliminary and final site plan approval with associated “c” and “d” variances to construct a three-story building with four residential units on the second floor and a restaurant and bar in the basement and first floor.

Testimony concerning the aforesaid application was taken by the Board at its meetings on July 20, 2022; September 21, 2022; and November 2, 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 approval as aforesaid to construct a three-story building with four residential units on the second floor and a restaurant and bar in the basement and first floor at premises located at 254 Dayton Avenue, Block 4.18, Lot 21, which premises are located in a PD1 zone; and

WHEREAS, the applicant has applied for preliminary and final site plan approval with associated “c” and “d” variances for:

- a. D(1) use variance where only one principal use is permitted per lot and two principal uses are proposed (restaurant and residential);
- b. D(1) use variance since mixed use buildings and residential uses are not permitted in the PD-1 zone;
- c. Variance for minimum lot area of 2,500 square feet is required and a lot area of 2,279 square feet is existing and proposed;
- d. Variance for lot depth of 100 feet is required and a lot depth of 90 feet is existing and proposed;
- e. Variance for front yard setback of 15 feet is required and 0 feet proposed;
- f. Variance for maximum building height (stories) of two required and three proposed;
- g. Variance for maximum building height (feet) of 30 feet is required and 31.5 feet is proposed;
- h. Variance in that high pressure sodium vapor lighting is required and LED lighting is proposed; and

WHEREAS, the Board has received the following reports:

- a. Report of Graviano & Gillis Architects & Planners, LLC dated July 8, 2022 and updated September 15, 2022; and
- b. Report of Neglia Engineering Associates dated September 28, 2021 [sic], revised July 15, 2022, revised September 15, 2022; and

WHEREAS, the Board has heard testimony from the applicant’s experts, Michael E. Dipple, PE, engineer; Afshan A. Vandal, AIA, architect; John Corak, traffic engineer; Matthew Seckler, PE, planner; and Matthew Flynn, PP, planner; and

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

- a. The applicant proposes to construct a new three-story mixed use building consisting of four residential dwelling units above ground floor commercial (restaurant/tavern) space and related site improvements;

- b. The Board acknowledges the complaints of the objectors concerning parking, but a parking variance is not required in the PD1 zone district;
- c. The Board acknowledges the concerns of the objectors regarding the entertainment license, and the entertainment license is under the jurisdiction of the City Council;
- d. The applicant has reduced its plans from 6 units to 4 units and from 4 stories to 3 stories to address concerns of the Board's experts and the objectors;
- e. The applicant agrees to a post-occupancy review regarding lighting and garbage to satisfy the residents' concerns;
- f. With respect to the garbage concerns, the applicant will engage a private hauler 3 times a week for garbage pick-up and not before 7 A.M.;
- g. The lot is presently vacant;
- h. The lot coverage is below the permitted lot coverage;
- i. Based upon the testimony presented by the applicant's expert, traffic is minimal during peak hours and parking will be on-street and in the public parking lot;
- j. Based on the testimony presented by the applicant's expert, the Board finds that the site is particularly suited for the proposed use since it replaces a previous bar with apartments above at the site;
- k. The applicant has satisfied the positive and negative criteria required for the grant of the use variances requested;
- l. 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 as testified to by the applicant's experts;
- m. 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;
- n. The benefits of the application outweigh the detriments, if any;
- o. The Board finds that the testimony presented by the applicant's experts is credible and supports approval of the application;
- p. The applicant has shown sufficient hardship to justify the grant of the "c" variances requested;
- q. Based upon the testimony presented by the applicant's experts on the record, the Board concludes that the applicant has met its burden of proof, entitling it to the grant of the approval 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 the proposal will not 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 with associated "d" and "c" variances to erect a three-story building with 4 residential units on the second floor and a restaurant/tavern on the first floor and basement at premises located at 254 Dayton Avenue, Block 4.18, Lot 21, be and the same are hereby approved and the "d" and "c" variances as set forth herein are hereby granted subject to such further governmental approvals as may be required by law and **SUBJECT TO THE FOLLOWING:**

- 1. Subject to compliance with reports and recommendations of Neglia Engineering Associates and Graviano & Gillis;**
- 2. Subject to a post-occupancy review regarding lighting and garbage and recycling disposal; and**
- 3. Subject to applicant engage a private hauler 3 times a week for garbage and not before 7 A.M.**

AND FURTHER SUBJECT TO THE FOLLOWING:

- 1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
- 2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for

review and approval by the Board Attorney and the City Engineer prior to filing of same.

3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.

4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.

5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.

6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.

7. Compliance with the terms of 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 Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello and Chrmn Mark Zecchino.

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,** that
the application of: **JAIME & VIVIANA BORJA**
for premises known as: **67 Huemmer Terrace, Block 64.01, Lot 17**
be and the same is hereby: **WITHDRAWN WITHOUT PREJUDICE** for a **6-foot-**
high solid fence along the perimeter of the property.

At the request of the attorney for the applicant, this matter was withdrawn without prejudice as follows:

Comr Louis DeStefano moved to withdraw the matter without prejudice on the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval for a 6-foot-high solid fence at premises located at 67 Huemmer Terrace, Block 64.01, Lot 17, which premises are located in an RA2 zone;

NOW THEREFORE, BE IT RESOLVED that the application for a 6-foot-high solid fence along the perimeter of the property at premises located at 67 Huemmer Terrace, Block 64.01, Lot 17, be and the same is hereby withdrawn without prejudice.

Resolution moved by: Comr LOUIS DE STEFANO
Seconded by: Comr SCOTT SOCHON

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

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MJG-MAR REALTY, LLC for premises known as: 42 Lakeview Avenue, Block 7.05, Lot 70 be and the same is hereby: DENIED a use variance and bulk variances for a storage and distribution center for the retail and wholesale sale of motor vehicle parts.

Testimony concerning the aforesaid application was taken by the Board at its meetings on September 21, 2022 and November 2, 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. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Louis DeStefano and Vice-Chrmn Gerard Scorziello. Voting against approval were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Chrmn Mark Zecchino. There were two affirmative votes and five negative votes. Pursuant to N.J.S.A. 40:55D-70(d), the failure of an application for a use variance to secure five affirmative votes shall be deemed an action denying the application. Counsel Pogorelec ruled that the application was denied and called for another motion:

Thereupon, Comr Michael Molner moved to deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance and bulk variance approval to operate a storage and distribution center for the retail and wholesale sale of motor vehicle parts at premises located at 42 Lakeview Avenue, Block 7.05, Lot 70, which premises are located in a BC zone; and

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

- a. The premises is a one story masonry building formerly known as Garden Palace Bowling Alley;
- b. The applicant proposes to change the use to a storage and distribution center for the wholesale and retail sale of automotive parts, requiring a use variance for warehouse use in the BC zone;
- c. There are seven parking spaces at the site, and the parking spaces are directly blocking the loading dock where there will be daily deliveries and, further, the applicant requires bulk variances for 5 parking spaces for the retail use and none are provided;
- d. There are 4-5 employees and 3-4 delivery drivers which will contribute to the lack of parking and safety concerns at the site;
- e. The Board is concerned with the retail aspect of the application with an abundance of customers coming to the site and the parking needs are not met;
- f. The BC zone specifically does not permit warehouse/distribution use;
- g. Bulk variances are required for front yard setback where 20 feet is required and 0 feet is proposed; side yard setback where 20 feet is required and 7.1 feet is proposed; rear yard setback where 15 feet is required and 0 feet is proposed; lot coverage where 60 percent is required and an excess of 60% is proposed; and 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; and one loading space is required and none are proposed;
- h. The site is not suitable for the proposed use due to lack of parking, loading dock placement being blocked by the parking, and intensity of the use;

- i. The applicant has shown no hardship or special reasons to justify the grant of the variances requested;
- j. The detriments of the application outweigh the benefits, if any;
- k. The proposed use is an overuse of the site with insufficient parking and loading; and

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

WHEREAS, the Board further finds from the testimony presented 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 storage and distribution center for the wholesale and retail sale of automotive parts at premises located at 42 Lakeview Avenue, Block 7.05, Lot 70, be and the same is hereby disapproved and the use variance for warehouse/distribution in the BD zone and bulk variances for front yard setback, side yard setback, rear yard setback lot coverage, 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 and for loading space be and the same are hereby denied.

Resolution moved by: Comr MICHAEL MOLNER.

Seconded by: Comr GEORGE FOUKAS.

Affirmed by: Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Chrmn Mark Zecchino.

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: FAUSTO ORTEGO for premises known as: 29 Abbe Lane, Block 27.12, Lot 6 be and the same is hereby: GRANTED variance for a 5-foot-high solid fence along Grove Street side of the property.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 2, 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 to erect a 5-foot-high solid fence at premises located at 29 Abbe Lane, Block 27.12, Lot 6, 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 to erect a 5-foot-high solid fence where a 4-foot-high 50% open fence is permitted;
- b. The property is on a slope which presents a hardship;
- c. The fence is requested for privacy and safety of family;
- d. There are similar-type fences in the neighborhood approved by the Board; 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 erect a 5-foot-high solid fence along the grove Street side of the property at premises located at 29 Abbe Lane, Block 27.12, Lot 6, be and the same is hereby approved and the variance for fence height be and the same is hereby granted 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 ZALMAN GURKOV.

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

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: LIGIA FILION for premises known as: 33 Clinton Avenue, Block 12.23, Lot 7 be and the same is hereby: GRANTED side yard setback variance for a driveway on right side of the home with 0 foot setback.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 2, 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 to install a driveway on the right side of the home at premises located at 33 Clinton Avenue, Block 12.23, Lot 7, 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 applicant seeks a side yard setback variance to install a driveway on the right side of the home;
- b. A variance is required for side yard setback proposed at 0 feet where 5 feet is required;
- c. There are other similar-type driveways to the property line in the neighborhood;
- d. The driveway will take vehicles off the street; 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 install a driveway to the right side property line at premises located at 33 Clinton Avenue, Block 12.23, Lot 7, be and the same is hereby approved and the variance for side yard setback variance be and the same is hereby granted 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 VICE-CHRMN GERARD SCORZIELLO.

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

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ANDREA & JEFFREY HOLM for premises known as: 10-12 Mt. Washington Drive, Block 32.08, Lot 14 be and the same is hereby: GRANTED rear yard setback variance for a proposed addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 2, 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 rear yard setback variance approval to erect an addition at premises located at 10-12 Mt. Washington Drive, Block 32.08, Lot 14, which premises are located in an RA3 zone; and

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

- a. The applicant requests variance approval to erect a rear addition;
- b. The rear yard setback proposed is 30 feet where 35 feet is required;
- c. The applicant seeks to expand their kitchen;
- d. The variance is de minimis; 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 erect a rear addition at premises located at 10-12 Mt. Washington Avenue, Block 32.08, Lot 14, be and the same is hereby approved and the variance for rear yard setback be and the same is hereby granted 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 SCOTT SOCHON.

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

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: KALMAN FRIEDMAN for premises known as: 462 South Parkway, Block 58.01, Lot 7 be and the same is hereby: GRANTED variances for side yard setback and rear yard setback to replace an existing shed.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 2, 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 Michael Molner moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval to replace an existing shed at premises located at 462 South Parkway, Block 58.01, Lot 7, 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 wants to replace an existing shed that is rotted;
- b. The shed will be replaced in the exact same location and size;
- c. The side yard setback is proposed at 0.56 feet where 3 feet is required;
- d. The rear yard setback is proposed at 1.61 feet where 3 feet is required;
- e. The new shed will upgrade the neighborhood; 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 replace an existing shed at premises located at 462 South Parkway, Block 58.01, Lot 7, be and the same is hereby approved and the variances for side yard setback and rear yard setback be and the same are hereby granted 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 MICHAEL MOLNER.

Seconded by: Comr SCOTT SOCHON.

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

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,** that the application of: **ABRAHAM GHANOONI**
for premises known as: **145 Allwood Place, Block 57.01, Lot 44**
be and the same is hereby: **GRANTED** variances for rear yard setback, lot coverage, and driveway not permitted in front of house not serving a garage for a two-story addition and conversion of garage to living space.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 2, 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 to erect a two-story addition and covert garage to living space at premises located at 145 Allwood Road, Block 57.01, Lot 44, which premises are located in an RA3 zone; and

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

- a. The applicant proposes to erect a two-story addition and convert the existing garage to living space;
- b. A variance is required for rear yard setback where 15.52 feet is proposed and 35 feet is required;
- c. A variance is required for lot coverage where 28.4 percent is proposed and 27 percent is required;
- d. A variance is required for a driveway in front of a house not serving a garage;
- e. The property is located on a corner lot;
- f. The applicant requires additional living space; 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 erect a two-story addition and convert garage to living space at premises located at 145 Allwood Road, Block 57.01, Lot 44, be and the same is hereby approved and the variances for rear yard setback, lot coverage, and proposed driveway in front of house not serving a garage be and the same is hereby granted further subject to such further governmental approvals as may be required by law subject to the following:

A. SUBJECT TO THE APPLICANT INSTALLING BOLLARDS IN FRONT OF THE FORMER GARAGE AS APPROVED BY THE CLIFTON ZONING OFFICER FOR SAFETY PURPOSES.

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 VICE-CHRMN GERARD SCORZIELLO.

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

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: DAWN JOHNSON for premises known as: 119 William Street, Block 72.05, Lot 14 be and the same is hereby: GRANTED variance for right side yard, left side yard, and combined side yard setbacks to cover deck with roof and screening.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 2, 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 to screen in and cover rear deck at premises located at 119 William Street, Block 72.05, Lot 14, which premises are located in an RB2 zone; and

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

- a. The applicant previously received variance approval on April 1, 2009, to construct a rear deck;
- b. The previous Resolution from the April 1, 2009 meeting are incorporated herein by reference and made a part hereof;
- c. The applicant now wishes to screen in the deck and cover it with a roof;
- d. The deck will not be enclosed;
- e. A variance is required for right side yard where 2 feet is proposed and 6 feet is required;
- f. A variance is required for left side yard where 3 feet is proposed and 6 feet is required;
- g. A variance is required for combined side yard setback where 5 feet is proposed and 16 feet is required; 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 cover present deck with a roof and screen in at premises located at 119 William Street, Block 72.05, Lot 14, be and the same is hereby approved and the variances for right side yard, left side yard, and combined side yards be and the same are hereby granted 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 SCOTT SOCHON.

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

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JASMITA & RAHUL KAPOOR for premises known as: 18 Barberry Lane, Block 53.09, Lot 2 be and the same is hereby: GRANTED variances for left side yard, front yard setback, and front yard setback for a two-story addition, extension to existing attic, and a front porch addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 2, 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 Scott Sochon moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variances as aforesaid for a two-story addition, extension to existing attic, and front porch at premises located at 18 Barberry Lane, Block 53.09, Lot 2, which premises are located in an RA2 zone; and

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

- a. The applicant proposes a two-story addition, extension to existing attic to a full second floor, and a front porch addition;
- b. Variance is required for left side yard setback where 5.38 feet is proposed and 6 feet is required;
- c. Variance is required for front yard setback where 24.28 feet is proposed and 30 feet is required;
- d. Variance is required for front porch addition where 20.25 feet is proposed and 21 feet is required;
- e. The property is a corner lot which creates a hardship; 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 erect a two-story addition and extension to existing attic to a full second floor and front porch addition at premises located at 18 Barberry Lane, Block 53.09, Lot 2, be and the same is hereby approved and the variances for left side yard, front yard, and front porch be and the same are hereby granted 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 SCOTT SOCHON.
Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF NOVEMBER 2, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,** that
the application of: **SHAMAI GOLDBERG**
for premises known as: **25 Edgewood Avenue, Block 58.13, Lot 22**
be and the same is hereby: **GRANTED** variances for lot coverage, right side yard,
combined side yards, and number of stories to erect a second floor addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 2, 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 Scott Sochon moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variances to erect a second floor addition at premises located at 25 Edgewood Avenue, Block 58.13, Lot 22, which premises are located in an RA3 zone; and

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

- a. The applicant proposes to erect a second-floor addition;
- b. Variance is required for lot coverage where 32 percent is proposed and 27 percent is required;
- c. Variance is required for right side yard setback where 5.9 feet is proposed and 6 feet is required;
- d. Variance is required for combined side yards proposed at 12.8 feet where 16 feet is required;
- e. Due to the basement more than 50 percent above grade, 3 ½ stories will be created where 2 stories are permitted;
- f. The basement is presently not finished and is used solely for storage;
- g. The applicant has agreed to an unfinished attic and will eliminate the dormers;

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 erect a two-story addition and extension to existing attic to a full second floor and front porch addition at premises located at 18 Barberry Lane, Block 53.09, Lot 2, be and the same is hereby approved and the variances for left side yard, front yard, and front porch be and the same are hereby granted further subject to such further governmental approvals as may be required by law **SUBJECT TO THE FOLLOWING:**

A. THE ATTIC WILL STAY UNFINISHED;

B. THE DORMERS ARE ELIMINATED;

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.
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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.
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Resolution moved by: Comr SCOTT SOCHON.

Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.

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