

MINUTES
CITY OF CLIFTON ZONING BOARD OF ADJUSTMENT
JANUARY 3, 2024

6:30 P.M. REORGANIZATION MEETING

COMMISSIONERS PRESENT:

GEORGE FOUKAS
MAUREEN O'CONNOR
MICHAEL MOLNER
SCOTT SOCHON
GERARD SCORZIELLO
MARK ZECCHINO.

ALSO PRESENT:

Jessica Sweet, Esq., Counsel/Secretary
Nicholas Graviano, P.P., Board Planner
Liana Bolcato, Asst. Zoning Officer

Commissioner Zecchino called the Reorganization Meeting to Order at 6:30 p.m. Ms. Sweet called nominations for Board Chairperson; Mr. Scorziello nominated Mr. Zecchino; nominations were called for twice more; seeing no other nominations, nominations were closed. Following a unanimous roll call vote of the members present, Mr. Zecchino was appointed as Chairperson for CY 2024.

Chair Zecchino called for nominations for Vice Chairperson; Comm'r Molner nominated Mr. Scorziello; nominations were called for twice more; seeing no other nominations, nominations were closed. Following a unanimous roll call vote of the members present, Mr. Scorziello was appointed as Vice Chairperson for CY 2024.

7:00 P.M. REGULAR MEETING

COMMISSIONERS PRESENT:

DAVID BRAID
GEORGE FOUKAS
MAUREEN O'CONNOR
MICHAEL MOLNER
SCOTT SOCHON
VICE CHAIRMAN GERARD SCORZIELLO
CHAIRMAN MARK ZECCHINO.

ALSO PRESENT:

Jessica Sweet, Esq., Counsel/Secretary
Nicholas Graviano, P.P., Board Planner
Anthony Kurus, P.E., Board Engineer

Liana Bolcato, Asst. Zoning Officer

Chairman Zecchino called the Regular Meeting to Order at 7:00 p.m.; he 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” public notice of the Board’s 2024 regular meeting schedule was published in the Herald News on December 24, 2023; all notice requirements were satisfied. Chair Zecchino announced the time, place, and form of notice as well as advising all applications 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.

Chair Zecchino advised all applications 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.

CONTINUED HEARINGS

1. **GEELAND, LLC**, Application for Use Variance, Bulk Variances & Site Plan
811-813 Rt 46, Block 34.03, Lots 75 and 77 – R-A2 –
Attorney: Michael D. Sullivan, Esq.

Chair Zecchino announced that this application has been continued to February 7, 2024.

NEW HEARINGS

2. **VIDAL RODRIGUEZ**: 56 Myrtle Ave., Block 84.02, Lot 1
Zone: RB
The applicant is proposing to convert single family home into a two-family home; the following variances are requested:
 - Rear yard setback: 8.46' proposed; 35' required
 - Minimum lot width: 67.62' existing; 75' required
 - Maximum lot coverage: 25.7% proposed where 25% required.

Applicant Vidal Rodriguez, 21 Myrtle Ave., Clifton, NJ appeared *pro se* and was sworn in. Project Architect Souleymane Dembele, RA, also appeared and was sworn in; the Board accepted his qualifications as an expert witness in the field of architecture. No interested parties appeared.

Mr. Dembele testified in support of the project, first summarizing the requested variances as follows: lot coverage- 25.7% where 25% is the maximum permitted; the variance is very minimal and requested to provide additional living space needed to square off the building. Mr. Dembele testified that the variance condition for the rear yard setback to Route 3 is an existing nonconforming condition. The variance condition for minimum lot width, where 67.62' is existing and 75' required is an existing condition. Mr. Dembele testified generally regarding the existing floor plan layout of house; he stated that each unit will have one garage space and one parking space, so 2 parking spaces per dwelling. The basement will be open. The massing of the proposed new addition will be similar to existing house; new building will be finished with vinyl siding. In

support of the variances, Mr. Dembele testified that the proposed lot coverage exceedance is de minimus; the site layout maintains a lot of yard space for recreation and play area. Mr. Vidal testified that the existing lot layout is awkward with large open space along the street; it appears to be an open lot; he lives down the street. Chairman Zecchino stated that it appears there are only one or two two-family homes in this area; Mr. Vidal testified that there are a number of two-family homes on that block. Mr. Vidal does not live there; he purchased it earlier this year; if approved he will move there. Mr. Souchon asked for one reason why this benefits the zoning plan; Mr. Dembele testified that the existing lot is uniquely situated with this large open area that is large enough to accommodate the proposed addition. Mr. Vidal testified that he wants to maintain the character of the neighborhood and keep the new house as similar to the existing house as possible. Chairman Zecchino asked if there were any questions from the public; seeing none, he closed the public portion. Mr. Dembele closed by saying the façade and massing are similar to the existing house and the neighborhood; it will fit in. Mr. Vidal stated that the proposal is for two separate homes with the character of a one family home. Commissioner Sochon stated that the design looks like two homes on one lot, not a two-family home.

At the conclusion of the testimony, Commissioner Sochon moved to deny the application; Commissioner Molner seconds. Voting in favor of the motion to deny were Commissioners Braid, Foukas, O'Connor, Molner, Sochon, Vice Chair Scorziello, and Chair Zecchino. The motion to deny carries.

3. **BRAD PERNA & MAYRA MUNOZ:** 7 Clifton Terrace., Block 30.10, Lot 6
Zone: RB2

The applicant is proposing to convert single family home into a two-family home; the following variances are requested:

- Minimum lot area: 5,000 SF existing; 7,500 SF required for 2-family
- Minimum side yard setback: 10' existing; 12' required
- Minimum front yard setback: 13.2' existing; 25' required

Applicants Brad Perna and Mayra Munoz, 7 Clifton Terrace, Clifton, NJ, appeared *pro se* and were sworn in. No interested parties appeared. Mr. Perna testified that they are the owners of a single-family home that they want a variance to create an in-law suite on the second floor of their one-family. Chairman Zecchino asked them to describe any hardship justification for the variance relief sought. Ms. Munoz testified that her mother is terminally ill and her father is also sick and she is the primary caretaker for both of them; her mother is in hospice; it has been very difficult; the parents are staying with them but they want to have their own space. Chairman Zecchino asked if they could maintain separate living space without dividing the house into two dwelling units. Ms. Munoz testified they have tried but it has been very difficult. Mr. Perna stated they are newlyweds and are requesting the second dwelling unit to provide additional privacy. Commissioner Braid asked them to provide more testimony about the layout they are proposing. Describing the proposed layout, Mr. Perna testified that they propose to add a partition to the first floor to create a new bedroom; on the second floor, they propose to remove the wall between the two bedrooms and construct a new kitchen. The first floor will be a one-bedroom dwelling unit and the second floor will be a studio apartment. Commissioner Scorziello stated that the hardship is supposed to address zoning considerations; he doesn't feel that the zoning criteria is met to grant a variance for a two-family home on this undersized lot containing only 5,000 square feet. Chairman Zecchino asked if

there were any questions from the public; seeing none, he closed the public portion.

At the conclusion of the testimony, Vice Chair Scorziello moved to deny the application; Commissioner Sochon seconds. Voting in favor of the motion to deny were Commissioners Braid, Foukas, O'Connor, Molner, Sochon, Vice Chair Scorziello, and Chair Zecchino. The motion to deny carries.

4. **ASHER & ALIZA WITTY:** 20 Parson Rd., Block 57.01, Lot 11
Zone: RA3

The applicant is proposing to expand an existing one-story home to include a second floor as well as a rear addition and front porch; the following variances are requested:

- Maximum lot coverage: 34.10% proposed; 27% required
- Minimum side yard setback: 5.44' proposed; 6' required
- Minimum front yard setback: 18.10' proposed; 25' required
- Basement area: proposing two offices and a playroom, where one open recreation room is permitted

Applicant Asher Witty, 20 Parson Road, Clifton, NJ, appeared *pro se*, and was sworn in. Project Architect William J. Martin, RA, AIA, PP, also appeared and was sworn in; the Board accepted his qualifications as an expert witness in the fields of architecture and professional planning. Several interested parties appeared. Mr. Martin provided the Board with a packet of four aerial photos showing the subject property and the surrounding neighborhood, which were marked as Exhibit A-1. Marked as Exhibit A-2 was a copy of the Clifton City Zoning Map, and marked as A-3 was a photograph of the existing house.

Mr. Martin testified that A-1 depicts a commercial property in the M-1 zone immediately adjacent to this property as well as the surrounding neighborhood. The site backs up to M-1 zone; abutting the subject property to the rear is an existing commercial use with a large parking lot. The Applicant seeks to add an addition to existing house because additional space is needed for the family. The basement is proposed to contain 2 home offices for husband and wife, along with playroom and closets for toy storage. The existing detached nonconforming detached garage will be removed; storage provided by garage will be moved to basement. The proposed colonial style architecture is consistent w/ neighborhood, similar to others in Clifton.

Mr. Martin testified that variance relief is justified as follows: the side yard setback variance is required due to the location of existing house; this plan proposes to continue that pre-existing nonconforming condition, justifying variance relief based on C(1) hardship grounds due to the location of the existing structure on the property. The variances for front yard setback and maximum impervious coverage can be justified under the C(2) flexible/better planning alternative grounds, as the additional coverage is needed to accommodate the new house (29.9%) and the proposed porch (4.11%); porch is completely open; you can see right through it, so it will not present a visual obstruction. The porch will encroach into the front yard setback, requiring a variance to permit a front yard setback of 18.10' where 25' is required. Mr. Martin stated that these variances meet the flexible C(2) variance criteria, as the front porch provides a benefit of aesthetic enhancement and additional space for modern living, outweighing any detriment. Mr. Martin further testified that the larger house is warranted due to the adjacent nonconforming commercial

use, a two-story behavioral health facility, which does not provide the 40' buffer to the subject residential use as required in the M-1 zone. In support of the positive criteria, Mr. Martin testified that the proposed plan meets several of the goals of the City Master Plan, including revitalization of housing stock, and good design for new and rehabilitated buildings. The proposed 5-bedroom house is not unusually large, and is in fact quite common. The variances will advance various purposes of zoning under the MLUL, including providing a desirable visual environment; the use is permitted; there will be no substantial detriment to public good, zone plan or ordinance, or master plan, and therefore the negative criteria are satisfied.

In response to questions from the Board, Mr. Martin testified that the gross floor area of the house will be 4,400 SF. Commissioner Foukas stated that the porch is inconsistent with the neighborhood, which has a uniform 25' front yard setback. Commissioner Souchon states that the basement staircase should be eliminated, as it looks like a business entrance and will be too easy to convert to illegal apartment/extra walls. Chair Zecchino notes that the basement rooms are a variance condition; the basement needs to be one open space; no new partitions are permitted. Mr. Martin states that there is currently one partition in the basement, and the Applicant will agree to revise the plan to delete the additional proposed partitions/home offices, and maintain only the utility partition as currently exists. Mr. Martin agrees further that if the application is approved, the Applicant will agree to a condition that the property be deed restricted to remain a one-family, as the RA-3 zone allows for single family residential use only.

Regarding parking, Mr. Martin states that the driveway will end in the backyard where the garage used to be, and 4 parking spaces will be provided in the driveway; the parking requirement is met.

Regarding the proposed front porch, Mr. Martin testified that the porch is an important aesthetic enhancement; they would agree to stipulation that porch only remain open; does this alleviate concerns about front yard setback? Chair Zecchino states that the porch does not appear to be consistent with the neighborhood; Mr. Martin states that the home across the street has a porch, and the porch has to be at least 6' wide to be useful.

The Applicant concluded testimony, and the Board opened the floor to interested parties. Henry Moderna, 36 Miller Plaza, Clifton, was sworn and testified that the neighborhood is changing and houses getting too big. This looks like a 3-story house; the large peak will block sunlight/sunset in afternoon hours; changing whole aspect of neighborhood, most of the houses are 1-story; this design will block air, light, and open space. In response to Mr. Moderna's questions, Mr. Martin stated that the basement will be used only as a play area for children; it will be an open space with floor area of approximately 2,000 SF. Mr. Martin further stated that the industrial building behind the site also blocks sunlight; this plan will be similar to house next door. They did try to take care to make aesthetically pleasing structure. Mr. Moderna states that the porch does not fit with neighborhood, with steps it's a 9' porch; he does not believe there is another one in the neighborhood.

Kevin Caccarello, 21 Parson Road, Clifton, was sworn and testified that the porch is not consistent with the neighborhood; even other large-scale renovations have kept the front yard setback consistent with others in the neighborhood; the proposed variance condition will not look

right in the neighborhood.

Andrew Ruppert, 28 Parson Road, Clifton, was sworn and testified as follows: the other homes in neighborhood are all low-level ranches; he is concerned about the porch, which will change character of neighborhood. Mr. Ruppert further testified that he is concerned about the height, as the plans appears to show a third floor. Mr. Martin testified that the plans conform to the height requirement.

Paul Tarlow, 8 Parson Road, Clifton, was sworn and testified that he wants to maintain character of street line to homes; front yard setback variance/porch would not fit in. There have been other 2 ½ story McMansions built in the neighborhood that block sunlight to lower dwellings. Mr. Tarlow stated that the plan is inconsistent with their quaint neighborhood and tidy streets; these large houses are changing the character for the worse.

In response to a question from Vice Chair Scorziello regarding the use of the attic, Mr. Miller testified that the attic can be finished space, but it cannot be a kitchen, bathroom or bedroom. It will be heated.

Mr. Witty then stated that he has not moved in yet but would agree to eliminate the proposed porch. Mr. Martin stated that he could revise the plan to eliminate both sides of the porch, but wants to maintain a covered entry/portico encroaching approximately 6' into front yard setback. Chair Zecchino suggests that the applicant revise the plans to eliminate the porch and create a covered front stoop. Mr. Martin states that he needs to figure out how to best scale the proposed portico to match the scale of the house. Asst. Zoning Officer Bolcato states that the portico can be a maximum of 4' x 8' and no closer than 21' to front lot line. The Board agrees to carry the application to February 7, 2024, pending submission of revised plans. No further notice will be provided.

5. NEIL & MERYL HILLSBERG: 54 Witherspoon Rd., Block 74.07, Lot 5

Zone: RA1

The Applicants have requested a variance from Clifton City Code Section 461-13 to construct an addition to the existing dwelling; increase nonconforming side yard setback to southerly property line from existing nonconforming condition of 7.77' to 5.43' whereas the Ordinance requires a minimum side yard setback of 10 feet. Due to trapezoidal shape of lot and location of existing dwelling on the lot.

Attorney Tyler R. Zeberl, Esq., Montclair Law Group, appeared on behalf of the applicants. Mr. Zeberl stated that this application came about after the existing house on the property was partially destroyed by fire in June 2023; the applicants are requesting a side yard setback variance on hardship grounds due to the unusual shape of the lot and placement of existing structures. Applicant/owner Neil Hillsberg was sworn and testified as follows: he and his wife purchased the property 9 years ago, it contains an existing one-story house, which they are proposing to expand by building a half-story addition. The house interior was largely destroyed by a kitchen fire in June 2023; the house has been uninhabitable since that time. The variance is requested due to the odd shape of the property, which is not perpendicular, but rather trapezoidal. The house is set at a weird angle to the lot lines.

Mr. Zeberl then introduced project architect Jackson Bangs, who was sworn and accepted by the Board as an expert in the field of architecture. Mr. Bangs provided the Board with a handout consisting of 14 sheets, which includes drawings and photographs depicting the property and the existing house, marked as Exhibit A-1. Mr. Bangs stated that 54 Witherspoon Rd is a large trapezoidal lot; ½ acre in size, with the unusual condition of a house not situated parallel to the lot lines. The exterior walls of the house are intact, but the interior was destroyed by fire. The variance condition is created by a proposed 74-square foot addition to the rear of house. Mr. Bangs testified that this rear addition will eliminate an existing jog in the exterior wall to create more floor space. This addition to the kitchen will improve the interior flow of the house and create a more gracious kitchen space. The laundry room will be moved to the first floor from basement, which is another reason why they need to bump out the addition. The remaining changes conform to the zoning requirements. The proposed height will be less than 20', where the maximum permitted is 30'. The new exterior brick façade will upgrade the property and constitute an aesthetic improvement. The only reason for variance is the existing angle of property line, which cannot be changed. The proposed variance is a minimal exacerbation of a pre-existing nonconforming condition, from the existing setback of 7.77' to the proposed variance condition of 5.43', a difference of just over 2 feet. Mr. Hillsberg stated that the property from his neighbor to the south is substantial, so there will be no detrimental effects on neighboring properties.

The Board then opened the floor to the public. Interested party Dr. Joseph DeLucia, 46 Witherspoon Road, was sworn and testified that he recommends that the Board approve the application, as Mr. Hillsberg is a great neighbor and there will be no adverse impacts to the neighborhood. Mr. Zeberl then closed by arguing that the side yard setback variance can be granted under the C(1) hardship criteria, due to the location of the existing house and size and shape of the existing property. Any modification to the existing house in this area would require a variance due to the preexisting nonconforming side yard setback in this area.

At the conclusion of the testimony, Commissioner Foukas made a motion to approve, stating that this application is the definition of hardship; Commissioner Sochon seconds. Voting in favor of the motion to approve are Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chair Zecchino. The motion to approve carries.

6. PETER MASTRIANO C/O MADELINE AVE INVESTMENTS LLC:

125 Madeline Ave., Block 42.04, Lot 12

Zone: RB-2

Attorney: Dominic Iannarella, Esq.

The applicant received a use variance on September 20, 2023 to convert an existing mixed use building to 4 residential apartments where two apartments were permitted; a parking variance for 5 parking spaces where 8 are required by ordinance was also granted as part of the September 20, 2023 approval.

Applicant is now seeking site plan approval and the following variances: a parking variance to reduce the number of parking spaces from 5 (as previously approved by parking variance granted on September 20, 2023) to 4 in order to comply with the ADA requirements as identified in the Board Engineer's report; 0 ft. setbacks are proposed on 6th Avenue and along the rear property line, parking within 5' of any other lot line and numerous pre-existing "c" variances not impacted

by this application.

Attorney Dominic Iannarella, Esq. appeared on behalf of the applicant. Site engineer Thomas Donohue, PE, Donohue Engineering, testified that the application was previously approved as a bifurcated use variance to convert this mixed use building to four two-bedroom apartments; the applicant is now seeking site plan approval pursuant as depicted on the plan dated 11/7/23. The property is located in the R-B1 Zone; Mr. Donohue testified regarding the various pre-existing nonconforming conditions affecting the property: it is deficient with respect to the required minimum lot area (7,500 SF required; 5,009 SF existing/proposed) and width (75 feet required; 50 feet existing/proposed), as well as other conditions relating to the placement of the existing building not affected by this application. Site plan approval is requested to construct a parking lot in the rear of the existing building, a new concrete sidewalk will be installed behind the building; a 5' PVC fence will be constructed along the rear property line; a seepage pit will be installed to collect runoff from the parking lot, the roof runoff will be directed to seepage pit as requested in the Board Engineer's report, dated December 15, 2023. To comply with comment 5.4 of the Board Engineer's report, to make the ADA parking space van-accessible, the number of spaces has been reduced from 5 as previously approved to 4. This is due to the undersized nature of the lot; there simply is not enough space to allow for 5 parking spaces and also meet the 16-foot width requirement for an ADA van-accessible space. Bulk variances are also requested from the parking lot layout requirements of City Code Section 461-60.F to permit the parking lot to be located within 5 feet of 6th Avenue and along the rear property line, where a minimum setback of 10 feet is required; from Section 461-60.P to permit a drive aisle width of 22.9 feet where 24 feet is required; and a variance from the requirement that a 100 SF landscaped area be provided within the parking lot, where none is proposed. These variances are driven by the undersized nature of the lot, which presents a hardship to the Applicant.

Board Planner Nicholas Graviano stated that the Applicant agreed as a condition of the use variance approval to work with his office to make aesthetic improvements to the building façade; these have not yet been provided; this is a continuing condition and should be included in the site plan approval. Mr. Donohue testified that the Applicant will comply with this condition, as well as with the other general comments identified in Mr. Graviano's review memorandum of December 30, 2023. As recommended in Comment 2, the site plan will be revised to flip the ADA parking space to the eastern side of the property.

The Board then opened the hearing to the public. Interested party: Sam Akin, 131 Madeline Avenue, Clifton, was sworn in and testified that he had appeared previously to object to this application when a 5-6 car parking lot was proposed, and now it has been reduced to 4 spaces for four 2-bedroom apartments. Mr. Akin raised concerns about the potential additional traffic and lack of parking. Chair Zecchino noted that the prior mixed commercial and residential use of the building was more intense than the four residential units. Mr. Akin raised additional concerns about privacy and residents potentially entering upon his property; Mr. Iannarella stated that the Applicant had previously agreed to eliminate the window on the side of the building as a condition of the use variance approval, and a fence will be installed along the rear property line to prevent any unintentional trespassing on Akin's property. Mr. Akin raised additional concerns about the steps at the rear of the building, which Mr. Iannarella noted are on the applicant's property will not be removed, but they will be shielded from view by the extension of the fence along the western

side lot line.

In response to questions by the Board, Board Engineer Anthony Kurus stated that the Barrier-Free Access Code requires that the one ADA parking space provided be van-accessible, so the Board does not have the authority to grant a variance from the width requirement prescribed by the Code, and because the parking lot is new, it must comply with the Barrier-Free standards. Mr. Iannarella noted that each apartment will have an assigned space; if none of the residents require an ADA space, it can still be utilized by one of the apartments since this is a private parking lot for use of building residents only.

At the conclusion of the testimony, Commissioner Molner made a motion to approve, with the following stipulations: to modify the previously granted parking variance to allow 4 spaces where 8 are required to allow for van accessible space to comply with Barrier-Free regulations; a variance from the required parking lot setback to the property line; a variance from the drive aisle width requirement; compliance with the conditions of the Board Planner's and Board Engineer's report, including the relocation of the ADA space to the eastern side of the parking lot and the assignment of parking spaces to each apartment; the addition of a fence and landscaping in the southwest corner of the property, which fence will extend along the property line and obscure the steps at the rear of the building from view by neighboring properties. Commissioner O'Connor seconds. Voting in favor of the motion to approve are Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chair Zecchino. The motion to approve, subject to the above stipulations, carries.

7. CALL THE BALL BILLIARDS, INC.: 1142 Rt 46, Block 44.04, Lot 25
Zone: B-D
Attorney: Robert Hess, Esq.

The Applicant is requesting a D(2) variance to expand a nonconforming use; bulk variance approval from the minimum number of parking spaces required, and site plan approval for a minor expansion of its existing premises to add a kitchen and to add a bar area to the existing space to provide food and beverage options for its patrons. The existing non-conforming use (billiard hall) has existed for thirty (30) years in the current space and the proposed expansion will not change the use nor expand the existing floor space for the billiards or add additional billiard tables or other amusement activities that would increase foot traffic.

Attorney Robert Hess, Esq. entered his appearance on behalf of Applicant Call the Ball Billiards, Inc. The Applicant is seeking to add a kitchen and bar to their existing floor plan. They Mr. Hess presents the testimony of Leonard Morina, President of Call the Ball. Mr. Morina testifies that Breaker Billiards been located at 1142 Rt 46 as a tenant under lease since May 1991. It is a billiard facility; they have vending, arcade machines and other table games. He generally described the hours of operation as 12 pm to 2 am Sun-Thurs and 12 pm to 3 am Friday and Saturday. He has a total of 6 employees, including him and his partner. Patrons can either make a table reservation or walk in; table charges are by the half-hour. The facility has existing tables and chairs; 6 tabletops in the center of the billiards hall. The existing food and beverage service is just vending machines. They have 24 parking spaces available, and have had no parking issues in 30 years.

Mr. Hess's letter dated 1/2/24, addressing the review memoranda of the Board Planner and Engineer is marked as Exhibit A-1.

Mr. Morina testifies that they seek to elevate the billiards experience by providing food and beverage service onsite to help with customer retention. They have obtained a liquor license but it has not yet been sited at the premises; if this is approved they will inform ABC that approval has been granted. License will allow for package privileges but board states that they will not approve package service; the Applicant agrees to this stipulation.

Mr. Morina testifies that they originally proposed the kitchen area in the small room but then space next door became available so they are going to make it larger. They will serve general American pub fare; chicken wings, burgers, etc. They would prefer that people rent a table to order food; but difficult to enforce; however he thinks it unlikely that people will come there just to eat and not play billiards or games. The kitchen and bar will be an accessory to the primary billiards use. Mr. Morina stipulates that all full-sized pool tables be maintained as is per Planner Graviano's report dated December 30, 2023. There will be no public access to kitchen space. The game room will be modified/reduced to accommodate the full bar as shown on the plan. Mr. Morina testified that he anticipates adding 5 more employees to each shift; now they only have one on shift at any given time. No additional dining tables will be added; the six existing tables will be maintained. Food and alcohol deliveries will be made in morning hours prior to opening (before noon) by hand truck. There will be no changes to exterior of the building, except for new signage, but this will comply with the zoning ordinance requirements. Employees will obtain TIPS certification to prevent overservice/drunk driving in compliance with ABC requirements. Mr. Morina testified that the existing trash containers should be sufficient for food service; if not they will schedule more pickups. Mr. Morina testified that he does not believe this will be an increase in traffic to facility because this is intended mainly to serve/retain existing clientele; he feels it may in fact create less traffic, since food deliveries will be eliminated.

As set forth in Exhibit A-1, the Applicant agrees to comply with the review letters of the Board Engineer and Planner.

In response to questions from the Board regarding age limits, Mr. Molina stated that they presently do not have any age limitations. If the bar is approved, they anticipate allowing all ages during day hours; patrons over age 21 will be given wristbands. During night hours, patrons will be limited to those 21 and over.

Commissioner Molner states it will be necessary to install a masonry enclosure and fence around the trash area, Applicant agrees. Planner Graviano notes that the introduction of food waste requires enclosure; he recommends that the Applicant work with Neglia Engineering to provide a decorative block design.

Mr. Hess then presented the testimony of project architect Michael Capo, AIA. Mr. Capo testified that the proposed kitchen space was formerly occupied as a Psychic office; the floor plan of Breaker Billiards will be modified as shown on revised sheet A-2, revised through 12/19/23 to address the comments in the review memoranda of the Board Planner and Engineer. In response to questions, Mr. Capo stated that any condensers required for walk-in coolers will be on the roof,

enclosed as required.

Mr. Hess then presented the testimony of William Stimmel, P.P. Mr. Stimmel addressed the D2 variance criteria. Regarding the positive criteria: the BD Zone permits a variety of intensive business uses, including bowling alleys. The billiard hall is similar to a bowling alley in that the number of participants is limited by the number of lanes/tables; the peak hours of both uses are in the evening, when other uses in zone and the site are slowing down. The number of patrons limited to those who can use the 16 existing tables. The interior expansion within this multi-tenant commercial building removes leasable space that could be used for another use. The proposed expansion is consistent with the Master plan goals of providing recreational uses; encouraging the reuse of older commercial areas and vacant commercial space; and providing new jobs.

Regarding the negative criteria, Mr. Stimmel testified that there will be no detriment to the public good since there will be no exterior site work and no increase in traffic due to number of tables being maintained as-is. This expansion is very similar to the bowling alley, which is a permitted use in the zone. The site can accommodate the expansion without any detriment to the public good.

The variance from the required minimum number of parking spaces, where a total of 83 spaces is required for this multi-tenant building and 24 exist, can be granted pursuant to NJSA 40:55D-70(C)2 as a better planning alternative. The positive criteria are similar to those identified in support of the D(2) variance: it advances the general welfare and Master Plan goals. The negative criteria are also similar. The parking will continue to function in the same way as it does today; the number of patrons/parking spaces required is limited by the 16 billiard tables. The proposed restaurant service and bar are an accessory to the principal use. The number of billiard tables will not be expanded. Incorporating the vacant tenant space into this existing use will decrease the site's overall development potential. Providing food and beverages onsite will limit trips by preventing patrons from ordering food delivery.

Mr. Graviano noted that any approval should be conditioned on the following: revising the plans to include a masonry trash enclosure as required by ordinance, subject to the approval of the Board Engineer; maintaining 16 pool tables; compliance with the recommendations of the review memoranda of the Board Engineer and Planner; no live entertainment or dancing to be provided; no package goods will be sold.

At the conclusion of the testimony, Vice Chair Scorziello made a motion to approve, subject to the above stipulations. Commissioner Sochon seconds. Voting in favor of the motion to approve are Commissioners Braid, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chair Zecchino. The motion to approve, subject to the above stipulations, carries.

ADOPTION OF RESOLUTIONS

1. GRANTED the application of EDGAR TORRES for rear yard setback variance for one story addition within 20 feet of lot line where 35 feet is required for premises located at 20 Spencer Ave., Block 42.04, Lot 12.

Offered by Vice Chair Scorziello and Seconded by Commissioner O'Connor. Voting in favor: Comrs. O'Connor, Sochon, Molner, Vice Chair Scorziello, and Chair Zecchino

2. APPOINTED JESSICA SWEET, ESQ., of SWEET BENNETT LLC as Counsel Secretary to the Clifton Zoning Board of Adjustment for the calendar year 2024.

Offered by Commissioner Molner and Seconded by Commissioner O'Connor. Voting in favor: Comrs. O'Connor, Sochon, Molner, Vice Chair Scorziello, and Chair Zecchino

3. APPOINTED JOHN D. POGORELEC, ESQ., of LAW OFFICES OF JOHN D. POGORELEC, LLC as Special Counsel for Litigation to the Clifton Zoning Board of Adjustment for the calendar year 2024.

Offered by Vice Chair Scorziello and Seconded by Commissioner Sochon. Voting in favor: Comrs. O'Connor, Sochon, Molner, Vice Chair Scorziello, and Chair Zecchino

Commissioner Sochon moved to accept the minutes of the December 20, 2023 regular meeting; the motion was seconded by Commissioner O'Connor, with the unanimous approval of all Board members present.

There being no further business before the Board, Commissioner Foukas moved to adjourn. The motion was seconded by Commissioner Sochon, with the unanimous approval of all Board members present.

Respectfully submitted,

JESSICA L. SWEET, ESQ.,
COUNSEL SECRETARY