

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, January 19, 2022. Chrmn Mark Zecchino led the entire assembly in the Pledge of Allegiance to the Flag of the United States of America. Pursuant to the "Open Public Meeting Law" all notice requirements were satisfied. Chrmn Zecchino announced the time, place, and form of notice as well as advising all applicants that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

PRESENT: COMRS URI JASKIEL, GEORGE SILVA, ZALMAN GURKOV, SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: NONE.

Chrmn Zecchino advised all applicants that the testimony given before the Board was being tape recorded. The applicants were further advised of the right of appeal and the procedure to obtain a stenographic record of the Board.

Upon motion made by Comr Scott Sochon, seconded by Comr Zalman Gurkov, the Minutes of the January 5, 2022, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARING

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

south and north. The Existing Lot is currently developed with an existing one-story building, an existing enclosed outdoor dining area and a temporary dining area behind the building. There will be noise dampening materials added to the structure to address the noise concerns.

This matter was continued by the Board to the February 16, 2022, meeting of the Board at the request of the attorney for the applicant.

2.
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 demolish the existing building on the Property and construct a new mixed-use building consisting of six (6) residential dwelling units within three (3) stories above ground floor commercial (restaurant/tavern) space and related site improvements. The Applicant seeks use variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) for a non-permitted use, as residential use is not permitted in the PD-1 Zoning District and a height variance pursuant to N.J.S.A. 40:55D-70(d)(6) for building height greater than permitted (30 ft. permitted; 40 ft. proposed). To the extent necessary, Applicant seeks a parking variance for providing less than required number of parking spaces and seeks a conditional use approval or conditional use variance for not providing parking on the same lot as the principal use/principal structure. The Applicant further seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) with respect to (1) front yard setback less than required (15 ft. required; 0.37 ft. proposed); and (2) number of building stories greater than permitted (2 stories permitted; 4 stories proposed).

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

This matter was previously continued by the Board until the February 16, 2022, meeting of the Board.

3. **680 CLIFTON, LLC**, 680 Route 3, Block 80.01, Lot 70 & 30 – B-C –
Use For Minor sub-division, bulk variance
Variance; (pre-existing non-conformance), and use
Variance variance (expansion of a pre-existing non-conforming use) approvals, to permit the expansion, subdivision, and assemblage of a strip of land, containing approximately 9,752.4 sf, with the current lot, containing approximately 3.43 ac., including bulk variance for:
- Min. Landscape Buffer (pre-existing non-conformance (NC); 25' required, 20' (L.30) & 0' (L.70) provided;
- Min. Landscape Buffer (Allwood Road) (pre-existing non-conformance (NC), 15' required, 1' (L.30) & 4' (L.70) provided;
- Min. Front Yard (pre-existing non-conformance (NC), 30'-60' or 70'-90' required, 89.5' (L.30) & 76.2' (L.70) provided;
- Min. Rear Yard (pre-existing non-conformance (NC), 50' required, 37.55' (L.70) provided (L.70);
- Parking (pre-existing non-conformance (NC), 305 spaces (L.30) & 236 spaces (L.70) required, 278 spaces (L.30) & 139 spaces (L.70) provided;
- and a use variance (expansion of a pre-existing non-conforming use; N.J.S.A. 40:55D-70.d(2)).

In addition, this Applicant will request such variances, waivers, permits, approvals, or licenses that the Board deems necessary or appropriate.

This matter was continued by the Board until the February 2, 2022, meeting of the Board at the request of the attorney for the applicant.

4. **BRG HOLDINGS, LLC**, 140 Entin Road, Block 60.14, Lot 6 – M-2 – Applicant proposes
Use to construct a 20,000 square foot warehouse
Variance; for use by business located across from site.
Variances Sole use will be warehousing. Application requires a D-3 variance for location to residential zone and bulk variances for rear yard, side yard and buffer strip. And for such other further relief the Board may deem appropriate.

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Suite 105, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Elliot Levy, President of National Public Seating of 149 Entin Road, Clifton, New Jersey; Jasvinder Arjani of Bertin Engineering, 66 Glen Avenue, Glen

Rock, New Jersey; and William J. Martin, Architect and Planner, of 25 Boulevard, Westwood, New Jersey. There was one objector: Edward Stubin of 50 Carol Street, Clifton, New Jersey.

Mr. Peterson stated that the applicant proposes to construct a 20,000 square foot warehouse for use by the furniture business located across the street from the site; that the sole use of the property will be for warehousing.

The Board is in receipt of reports from Gregory Associates dated November 22, 2021; and Neglia Engineering dated November 19, 2021.

Elliot Levy testified and stated that his company would lease the property from the applicant and utilize it as a warehouse.

Jasvinder Arjani testified as an architect for the applicant, stating that the applicant proposes a 20,060 square foot warehouse building with 50 parking spaces and loading bays; that there will be a retaining wall with the greatest height of 15 feet at the rear of the property along with a 4-foot-high chain link fence. He testified as to the following exhibits which were offered into evidence as follows:

“A-1” for identification, an aerial photograph of the site and surrounding properties;
“A-2” for identification, an aerial photograph of the site showing the zone, the rectangular shape of the property with frontage along Entin Road;
“A-3” for identification, an aerial photograph showing the site and uses surrounding the property.

William Martin testified as a planner for the applicant and gave testimony concerning the existing zoning and surrounding land uses and the proposed development of the 20,060 square foot building with 50 parking spaces and 3 loading bays; that the proposal requires a D-3 conditional use variance since a warehouse is a conditionally-permitted use in the zone but does not meet one of the criteria, which is the use shall not be located on a lot or any part of which is within 100 feet of a residence district boundary; that bulk variances are also required for minimum side yard setback where 15 feet is required and 11.9 feet proposed; minimum rear yard setback abutting residence where 40 feet is required and 20 feet is proposed; minimum buffer abutting residential where 40 feet is required and 20 feet is proposed; ground sign setback where 20 feet is required and 2 feet is proposed; and number of parking spaces where 82 spaces are required, and the applicant is providing 55 spaces; that the proposal will not have any type of detrimental effect on the adjacent properties and will not cause any damage to the character of the neighborhood or the public good; that the proposal is consistent with the other uses in the neighborhood.

The following exhibits were offered into evidence:

“A-4” for identification, Zoning Map, area businesses, and aerial map;
“A-5” for identification were 15 photographs depicting the site and other uses in the area.

In objecting to the application, Edward Stubin testified that he is the owner of an adjacent site building; that he objects to the site plan; that the proposal will create a potential for flooding with heavy rains and a fire hazard; that he objects to the height of the retaining wall.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application subject to compliance with all requirements set forth in the report of Neglia Engineering dated November 19, 2021; a satisfactory report from the Fire Department of the City of Clifton; and subject to the further restriction that the proposed building will be

used solely as a warehouse and not a flex use. Vice-Chrmn Scorziello further instructed the Counsel Secretary to prepare the proper Resolution. 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.

5. **EMPIRE REALTY MANAGEMENT CORP.,**
94-96 Market Street, Block 68.03, Lot 43 – BC –
Use An approval to demolish the ALLWOOD
Variances; THEATER and replace it with three additional
Variances new retail stores abutting the existing retail
stores on Market Street and, in the rear, construct
a three-story apartment building containing 26
senior citizens housing units restricted to tenants
aged 55 and older. Two use variances are required,
one to permit more than two principal uses on
the same lot and second to permit housing in a B-C
zone where no housing is permitted. Utilizing the
bulk variances set forth in the Zoning Ordinance
for the areas in which the two uses for which use
variances are sought are permitted, as required by
law, the following bulk variances are required:
front yard 5' required 0' provided; minimum
rear yard 10' required, 0' proposed; site yards,
where the property abuts residential use, for the
sideyards half of the height of the building is
required. On the right side, 0' is proposed and
on the left side 4.6' is proposed, which is an
increase of 2.6' from the existing left side yard.
It should be noted that the Zoning Ordinance
provides that the front of a lot is the narrowest
part of the lot facing a street. Therefore, the
front of the subject lot is on Lyall Road.

This matter was previously continued by the Board until the March 2, 2022, meeting of the Board.

NEW HEARINGS

1. **ROBERTO RIVERA, 214 Valley Road,**
Variance Block 22.10, Lot 6 – RB3 – Applicant
requests a 6' solid fence already installed
on the street side yard along Warren Street
where only 4' high 50% open fence is
permitted.

The applicant, residing at 214 Valley Road, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests a 6-foot-high solid fence already installed on the street side along Warren Street where a 4-foot-high 50% open fence is permitted.

The applicant testified that he installed a solid 6-foot-high solid vinyl fence to replace a former 6-foot-high fence which was in need of repair; that he has a dog and three children; that he is a combat veteran and suffers from PTSD and needs the dog for assistance; that the dog also provides security for his son who requires special needs; that the purpose of the fence is to provide security as well as privacy.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variance. 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.
Variances

CARLOS GOYBURU, 2 Mt. View Drive, Block 27.02, Lot 14 – RA2 – Applicant proposes new in-ground pool, second floor addition and deck. The following variances are being requested:

- 2 ½ stories proposed where 2 stories are permitted.
- Rear yard setback at new second floor proposed at 26'10" and to new deck proposed at 11'10" where 35' is required.
- Proposed in-ground pool is 4' from house where 10' minimum is required.

The applicant, residing at 2 Mountain View Drive, Clifton, New Jersey, was present and sworn. Also present and sworn was Michael Capo, an Architect, with offices at 12 Brookhill Terrace, Clifton, New Jersey. There were no objectors.

Mr. Capo testified as an architect and stated that the applicant proposes a new in-ground pool, a second floor addition, and deck at the subject premises; that the applicant requests the following variances: 1. 2 ½ stories proposed where 2 stories are permitted; 2. Rear yard setback at the new second floor proposed at 26 feet 10 inches and to new deck proposed at 11 feet 10 inches where 35 feet is required; 3. The proposed in-ground pool is 4 feet from the house where 10 feet minimum is required; that the proposed addition will not exceed 30 feet in height which is similar to the height of the adjacent homes.

The applicant confirmed that the testimony given by the architect was true and accurate.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. 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 is decision is based.

RESOLUTIONS

Chrmn Zecchino stated that the next order of business would be the adoption of the Resolutions set forth on the Agenda:

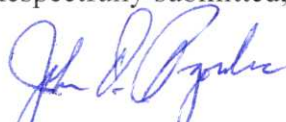
1. Upon motion made by Comr Michael Molner, seconded by Comr George Silva, and affirmed by Comrs George Silva, Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of LILIANA OTALVARO for variances for lot width, lot area, left side line setback variance, and variance for 3 stories to demolish an existing single-family home and erect a new two-family home at 610 Gregory Avenue, Block 13.13, Lot 47, was adopted. RB2

2. Upon motion made by Comr George Foukas, seconded by Comr Michael Molner, and affirmed by Comrs George Silva, Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of GACCIONE CONTRACTORS LLC for a use variance for 10,000 square feet of the subject premises to be used as a contractor's storage yard at 750 Bloomfield Avenue, Block 49.11, Lot 30, was adopted. M-2

3. Upon motion made by Comr George Foukas, seconded by Comr Louis DeStefano, and affirmed by Comrs George Silva, Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of 152 164 GETTY AVE CORPORATION for final site plan approval to convert second story to 15 dwelling units at 156 Getty Avenue, Block 11.03, Lot 56 and Block 11.22, Lot 1.01, was adopted. M-2

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 JANUARY 19, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: **BRG HOLDINGS, LLC**
for premises known as: **140 Entin Road, Block 60.14, Lot 6**
be and the same is hereby: **GRANTED** use variance to erect a warehouse and bulk variances for side yard setback, rear yard setback, buffer abutting residential, ground sign setback, and number of parking spaces.

Testimony concerning the aforesaid application was taken by the Board at its meeting on January 19, 2022. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to approve the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid to erect a 20,060 square foot warehouse for use by business located across from the site at premises located at 140 Entin Road, Block 60.14, Lot 6, which premises are located in an M-2 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 applicant proposes a 20,060 square foot warehouse to be utilized by the furniture business located across from the site;
- b. A D-3 use variance is required since the warehouse is conditionally-permitted, however, does not meet one of the criteria of the zone ordinance, to wit: that the use will not be located on a lot or any part of which is within 100 feet of a residence district boundary;
- c. Based upon the testimony of the applicant's planner, the proposed warehouse is a conditional use and, therefore, must satisfy all the requirements of the conditional use criteria;
- d. The Board finds that the actual deviation will not have an adjacent detrimental effect on the adjacent properties;
- e. The proposal will not change the character of the neighborhood and is consistent with the other uses in the neighborhood;
- f. Based upon the testimony of the applicant's planner, the applicant has satisfied the positive and negative criteria required for the grant of the conditional use variance;
- g. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;
- h. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since warehouses are conditional uses; 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 20,060 square foot warehouse at premises located at 140 Entin Road, Block 60.14, Lot 6, be and the same is hereby approved and the conditional use variance, side yard setback, rear yard setback, minimum buffer abutting residential, ground sign setback, and number of parking spaces variances be and the same are hereby granted subject to such further governmental approvals as may be required by law **AND SUBJECT TO THE FOLLOWING STIPULATIONS:**

A. COMPLIANCE WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF NEGLIA ENGINEERING DATED NOVEMBER 19, 2021;

B. SATISFACTORY REPORT FROM THE FIRE DEPARTMENT OF THE CITY OF CLIFTON;

C. THAT THE SOLE USE OF THE PREMISES WILL BE FOR A WAREHOUSE AND NOT A FLEX USE; and subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.
16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.
24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

Resolution moved by: Comr 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 JANUARY 19, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ROBERTO RIVERA for premises known as: 214 Valley Road, Block 22.10, Lot 6 be and the same is hereby: GRANTED approval for a 6-foot-high solid fence along Warren Street.

Testimony concerning the aforesaid application was taken by the Board at its meeting on January 19, 2022. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr George Foukas moved to approve the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval for a 6-foot-high solid fence along Warren Street at premises located at 214 Valley Road, Block 22.10, Lot 6, which premises are located in an RB3 zone; and

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

- a. The applicant requests approval for a 6-foot-high solid fence along Warren Street where a 4-foot-high 50% open fence is permitted;
- b. The fence provides privacy and security for the applicant and his family;
- c. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- d. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that there has been no testimony presented to show that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a 6-foot-high solid fence already installed along Warren Street at premises located at 214 Valley Road, Block 22.10, Lot 6, be and the same is hereby approved and the variance be and the same are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.

15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.

16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.

17. All utilities to be constructed underground.

18. All temporary encroachments into the public right-of-way shall require City Council approval.

19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.

20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.

21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.

22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.

23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.

24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

Resolution moved by: Comr GEORGE FOUKAS.

Seconded by: Comr 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 JANUARY 19, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CARLOS GOYBURU for premises known as: 2 Mt. View Drive, Block 27.02, Lot 14 be and the same is hereby: GRANTED bulk variances to install an in-ground pool, second floor addition, and deck.

Testimony concerning the aforesaid application was taken by the Board at its meeting on January 19, 2022. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval to install an in-ground pool, a second floor addition, and a deck at premises located at 2 Mt. View Drive, Block 27.02, Lot 14, which premises are located in an RA2 zone; and

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

- a. The applicant proposes a second floor addition where two stories are permitted, and the applicant is proposing 2 ½ stories;
- b. The rear yard setback at the new second floor is proposed at 26 feet 10 inches and to the new deck proposed at 11 feet 10 inches where 35 feet is required;
- c. The proposed in-ground pool is 4 feet from the house where 10 feet minimum is required;
- d. Based upon the testimony of the applicant's architect, the applicant has shown sufficient hardship to justify the grant of the variances requested;
- e. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that there has been no testimony presented to show that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for an in-ground pool, second floor addition, and deck at premises located at 2 Mt. View Drive, Block 27.02, Lot 14, be and the same is hereby approved and the variances for number of stories, rear yard setback, and distance from house to pool as aforesaid be and the same are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all

applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.

14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.

15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.

16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.

17. All utilities to be constructed underground.

18. All temporary encroachments into the public right-of-way shall require City Council approval.

19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.

20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.

21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.

22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.

23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.

24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

Resolution moved by: Comr 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.