

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, March 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, 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 Michael Molner, the Minutes of the February 16, 2022, regular meeting were adopted with the unanimous approval of the entire Board.

Upon motion made by Comr Louis DeStefano, seconded by Comr George Silva, the Minutes of the February 23, 2022, special meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

1. **CLIFTON IL, LLC**, 782, 784, 810 & 818 Valley Road, Block 24.01, Lots 11, 14, 15 & 18 – R-A1 & Steep Slope – This is an application to construct a fifty (50) unit senior citizen apartment project on proposed and expanded Lot 14 in Block 24.01. This would replace the proposed 31 unit senior citizen apartment building previously approved by the Board of Adjustment to be constructed on Lot 14. The application would include a subdivision to divide parts of Lot 15 and 18 from the existing lots and add those two sections to existing Lot 14. The application would include a request for the following:
 1. A D1 Use Variance use not permitted in the zone.
 2. A D5 Density Use Variance (7 dwelling units permitted, 13.25 dwelling units proposed).
 3. A D6 Height Variance for a height higher than 10% of the permitted height in the zone (41'5" proposed, 30' permitted).For bulk variances as follows:
 1. Maximum impervious lot coverage as follows:
 - a. in the 15% slope area, 30% permitted, 47.2% proposed;

- b. in the 15.1% to 25% slope area, 25% permitted, 48.8% proposed;
 - c. in the 25.1% to 30% slope area, 25% permitted, 25.3% proposed;
 - d. in the over 30% slope area 0% permitted, 2.4% proposed.
2. Maximum impervious coverage, 0% permitted, 12.6% proposed.
 3. Excavation in slopes in excess of 30%.
 4. Uppermost point of a cut slope higher than the top of the nearest downhill structure or building; and
- A waiver is required for the number of parking spaces as provided per RSIS (68 spaces proposed, 79 spaces required), but the application far exceeds the number of spaces required by the Zoning Ordinance (17 spaces required, 68 spaces 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: Michael F. Dwyer, LLA, RLA, of Bohler Engineering, Assistant Project Manager, 30 Independence Boulevard, Warren, New Jersey, and Roger Bernier of 316 South Avenue, Fanwood, New Jersey, the President and CEO of Chelsea Senior Living. Also present in objecting to the application were the following: Michael Sica, 2 Pebble Road, Woodland Park, New Jersey; Alessia Eramo, 35 Merrill Road, Clifton, New Jersey; and Ann Schenkenberg, 268 Washington Avenue, Clifton, New Jersey.

This is a continued hearing from the February 23, 2022, special meeting of the Board.

Mr. Dwyer testified that it is not feasible to move the independent living facility closer to the assisted living facility next door as suggested since the utilities are located in between; that as to Exhibit "A-3" he reiterated all the details which have been updated.

Offered into evidence as "A-5" is a colorization Landscape Plan prepared by Bohler Engineering dated February 28, 2022.

Mr. Dwyer continued to testify that the applicant revised the landscape plan; that the applicant will remove 107 trees instead of 125 trees on the westerly portion between the Church and proposed building; that the applicant will plant 53 trees instead of 9 trees; that there are significantly more plantings from the prior approved plan for the site; that the area behind on the mountain cliff will be dedicated to the City of Clifton as a conservation easement.

Mr. Bernier testified that he is President and CEO of Chelsea Senior Living, and he testified as to the day-to-day operations; that this applicant operates approximately 22 senior living areas in New York and New Jersey; that 20 percent of the residents drive; that the average age of residents is 86; that this type of facility is for when individuals age out of active adult communities, they can still be active; that they offer seven-days-a-week exercise, activities, breakfasts, and cocktail hours; that there are six or seven staff members in the independent living facility; that there is a concierge who oversees transportation, bus, and deliveries for the residents; that the units all have laundry facilities and a kitchen; that housekeeping is available; that currently, there are 500 leads for individuals looking to become residents, that the demand is very high and is needed in this community.

In response to questions from objectors Alessia Eramo, Michael Sica, and Ann Schenkenberg, Mr. Bernier testified that parking at the existing facility next door is not enough, that overflow parks across the street in the Church lot; that the cost of a one-bedroom unit is approximately \$2,800.00 to \$3,000.00 per month and for a two-bedroom unit is \$3,700.00 a month; that the independent living facility will complement the assisted living facility; that they have no intention of building a nursing facility at this site; that the change from 31 units to 50 units will have a negligible impact on traffic as testified to by the traffic expert.

In closing, objector Sica stated he has concerns for public safety, traffic patterns, and safe passage; that there needs to be a traffic management plan on Valley Road.

In summation, objector Eramo stated that this is an overdevelopment; that she is concerned with environmental impacts, trees, traffic, and parking.

In summation, objector Schenkenberg stated that she has concerns of overdevelopment, flooding, natural resources, the environment, and traffic.

In summation, Mr. Carlet stated that the application satisfies the need in the City of Clifton for senior citizen housing; that the purposes of zoning are advanced; that the plan is good for all citizens, not just environmentalists; that the applicant is giving a conservation easement to the City so that the steep slope area will not be developed; that the applicant accepts all of the conditions in the report of Neglia Engineering dated July 16, 2021, revised October 15, 2021 and Graviano & Gillis dated January 25, 2022.

After a review of the testimony, Comr Louis DeStefano moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the following stipulations:

1. Subject to compliance with all recommendations contained in the report of Neglia Engineering Associates dated July 16, 2021, revised October 15, 2021;
2. Subject to compliance with all recommendations contained in the report of Graviano & Gillis dated January 25, 2022;
3. Subject to the applicant granting a conservation easement to the City of Clifton so that nothing can be built above it up the mountain slope;
4. Subject to Passaic County Planning Board approval; and
5. Subject to 30 dedicated parking spaces for St. George's Greek Orthodox Church and maintenance of same by the applicant.

The motion was seconded by Comrs Michael Molner. Voting in the affirmative were Comrs Uri Jaskiel who stated that the testimony of the operator of the premises was very professional and knowledgeable and applicant's commitment to furthering the interests of the people he serves and the community are honorable; that there is a public need; that the applicant is considerate of other interests by making the plans more accommodating to environmental issues and neighbors; George Silva who stated that the Church will have more room; that the use as a senior citizen building is ideal; that the traffic is not as bad as complained of; Comr Scott Sochon who stated that this development meets Clifton's needs for senior citizen housing; that this new proposal in moving the building does not have as great of an impact on the steep slope as the prior approval; Michael Molner who stated that he agrees with Comr Sochon; that the easement to the City of Clifton is good; that there is one driveway instead of three; that the parking issue is addressed so there will be no overflow across Valley Road; Comr Louis DeStefano who stated that the applicant has helped preserve the steep slope and trees; that the applicant was removing 125 trees and is now removing 107 trees; that the traffic on Valley Road is affected by the construction on Route 3 with the NJDOT; that the Passaic County Planning Board will address Valley Road regarding turning ingress and egress; that drainage and sewer were addressed by the applicant's engineer and the Board's engineer; that the application helps people who live alone with social services and transportation;

Vice-Chrmn Gerard Scorziello who stated that the use is an inherently beneficial use; that senior housing is in the Master Plan; that this is a significantly better plan; that the traffic flow will be addressed by the Passaic County Planning Board; and Chrmn Mark Zecchino who stated that this plan is a much better plan than the previous; that the use is inherently beneficial; that senior housing for age 62 and over is in the Master Plan; that the applicant has reduced the amount of trees to be removed and increased the plantings; that the easement will ensure no building in the back on the steep slope; that the applicant will comply with recommendations of Neglia Engineering regarding sewer and water; that the traffic may be an issue, but Route 3 and 46 should get better once construction is complete. 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.
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 continued by the Board at the request of the attorney for the applicant to the meeting of April 6, 2022.

3. **EMPIRE REALTY MANAGEMENT CORP.**,
Use 94-96 Market Street, Block 68.03, Lot 43 – BC –
Variances; An approval to demolish the ALLWOOD
Variances THEATER and replace it with three additional
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 continued by the Board at the request of the attorney for the applicant to the meeting of April 6, 2022.

NEW HEARINGS

1. **YEVGENIY KANTOR**, 18 Ellsworth Street,
Variances Block 43.23, Lot 8.02 – RB1 – Applicant
proposes to build a 10’ wide balcony on the
left side of his home. Left side yard setback
would be proposed at 2’ where a minimum of
6’ is required and combined side yard proposed
at 9’ where 16’ is required.

The applicant and his wife, Anna Fefer, residing at 18 Ellsworth Street, Clifton, New Jersey, were present and affirmed. There were two objectors, Chris Gorman and Ebony Mines, residing at 147 Katherine Avenue, Clifton, New Jersey, who were present and sworn.

The applicants testified that they requests variance approval to construct a 10-foot-wide second floor balcony on the left side of the home; that the left side yard setback is proposed at 2 feet where a minimum of 6 feet is required; that the combined side yard is proposed at 9 feet where 16 feet is required; that they chose the second floor side yard deck over a back yard deck for convenience and privacy purposes; that the purpose of the

deck is also for more usable space for the family and for her children to play in the fresh air; that her children do not play in the yard.

Offered into evidence as “A-2” are photographs of the front and side of the premises.

The objectors testified that they own the 50- by 75-foot undersize abutting lot; that they use the lot for recreation and may build at some point; that 2 feet is very close to their property line as opposed to the allowable 6 feet; that they use the abutting lot for their children to play and value their privacy and safety also; that they object to the second floor deck since it will be right over them and infringe on their privacy and safety; that they do not object to the balcony if it is at the 6 feet that is required by law.

Offered into evidence as “O-1” is a photograph of the abutting lot in relation to where the deck will be.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to deny the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comrs Michael Molner. Voting for denial were Comrs Scott Sochon, Michael Molner, Louis DeStefano who stated there is no hardship, Vice-Chrmn Gerard Scorziello who stated that a grant of the variance will be at the expense of the abutting neighbor, and Chrmn Zecchino who stated that the second floor deck is very intrusive and looking over the neighbors. Voting against denial were Comrs Zalman Gurkov who stated there is a street in the middle and George Foukas who agrees with Comr Gurkov. By a five to two vote, the motion carried, and the application 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.

2. **BARBARA QUINTANA & IVAN ENRIQUEZ,**
Variance 19-21 Lambert Avenue, Block 22.06, Lot 30
-- RB2 – Applicant proposes to extend front porch and relocate the front door, the following variances are needed: Front yard setback proposed at 8.2’ where 25’ is required.

The applicants, residing at 19-21 Lambert Avenue, Clifton, New Jersey, were present and sworn. There were no objectors.

Barbara Quintana testified that she requests variance approval to extend the front porch and relocate the front door at the subject premises; that the front yard setback requirement is 25 feet, and the applicant is proposing 8.2 feet; that both homes on either side of the premises have similar setbacks and that approximately 90 percent of the homes on the block have similar-type setbacks.

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 application. The motion was seconded by Comrs 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.

3. **JIM BEIRNE**, 35 Englewood Road, Block 68.11,
Variances Block 68.11, Lot 18 – RA3 – Applicant proposes
changes to a previous approved application.
Second story deck will be removed and the
second-floor bedroom addition will now be
expanded. The following variances are requested:
1) Right side yard is 5.8’ and left side yard is
5.7’ where one side yard is permitted to be 6’.
2) Combined side yards are 11.3’ where a
minimum of 16’ is required.
3) Rear yard setback proposed at 30’6” where
35’ is required.

This matter was dismissed without prejudice due to a defective notice upon motion made by Comr Scott Sochon, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by 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. **ERIKA RYBACK**, 37 Jani Court, Block 39.05,
Use Lot 39 – RA2 – Applicant proposes to put an
Variance oven in the basement of her home where a
dwelling unit shall only be permitted to have
one kitchen.

The applicant, residing at 37 Jani Court, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that she requests variance approval to put an oven in the basement of her home at the subject premises; that the municipal ordinance provides that only one kitchen is permitted in a dwelling unit; that she has a kitchen in the basement which was previously permitted and is now seeking to install an oven.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to deny the application, citing the fact that the applicant has shown no hardship to justify the grant of the variance requested. The motion was seconded by Comr George Foukas. 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 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.

5. Variance **MESIVTA OF CLIFTON, INC.**, 369 Delawanna Ave., Block 72.01, Lot 8 – -- Applicant is requesting relief, if necessary, from any variances, approvals, waivers and/or exemptions from any applicable provision of the Municipal Code of the City of Clifton necessary for approval of the application, for an addition to a 1-family residence where a rear setback required is 35’ and the rear setback is 24’.

This application was dismissed without prejudice due to a defective notice upon motion made by Comrs Michael Molner, seconded by Comr Scott Sochon with the unanimous approval of the entire Board. The 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 to the Board and upon which this decision is based.

COMMUNICATIONS

Chrmn Zecchino called the Board’s attention to a communication from Frank A. Carlet, Esq., regarding QUICKS REALTY, LLC, 802 Van Houten Avenue, Block 36.10, Lot 16, and a request to extend the approval granted by the Board for one year to March 17, 2023.

Thereupon, Comr Scott Sochon moved to permit the extension. 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.

RESOLUTIONS

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

1. Upon motion made by Comr Scott Sochon, seconded by Comr Michael Molner, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of J & I CHIMICHANGA, LLC a/k/a EL MEXICANO CLIFTON for expansion of existing restaurant for covered outdoor dining at 1293 Main Avenue, Block 11.07, Lot 16, was adopted. BC

2. Upon motion made by Comr Michael Molner, seconded by Comr Scott Sochon, and affirmed by Comrs George Silva, Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of PASSAIC CLIFTON COMMUNITY KOLLEL for front addition at 409-411 Main Avenue, Block 59.03, Lot 17, was adopted. B-B

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

4. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MATT WEST for front and rear yard setback variances for a second floor addition and new covered porch at 105 Greglawn Drive, Block 45.03, Lot 5, was adopted. RA2

5. Upon motion made by Comr Michael Molner, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of KEVIN PERLITSH for left side yard setback, combined side yard setback, and front yard setback variances for a two-story rear addition and a second floor add-a-level at 196 South Parkway, Block 60.02, Lot 3, was adopted. RA3

6. Upon motion made by Comr Zalman Gurkov, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MARC FRIEDLANDER for variances for side yard setback, combined side yard setback, front yard setback, and lot coverage for a rear two-story addition at 199 South Parkway, Block 60.08, Lot 2, was adopted. RA3

7. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOSEFINA PEREZ & SALVADOR HERNANDEZ for rear yard setback variance permitting the installation of a covered but open carport over an existing paved driveway at 13-15 Rose Street, Block 49.02, Lot 1, was adopted. RB1

The Board considered the request of COSTCO for a special meeting. After discussion, it was agreed that a special meeting would be scheduled for April 27, 2022, for the application.

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 MARCH 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFTON IL, LLC for premises known as: 782, 784, 810 & 818 Valley Road, Block 24.01, Lots 11, 14, 15 & 18 be and the same is hereby: GRANTED preliminary and final site plan approval for a D(1) use variance, D(5) density variance, D(6) height variance, and bulk variances for maximum impervious lot coverage, excavation of slopes, uppermost point of a cut slope shall not be higher than the top of the nearest downhill structure or building, and parking to subdivide the property, remove buildings on Lot 14 and 15 and construct an Age 62+ senior independent living multi-family residential development with 50 units.

Testimony concerning the aforesaid application was taken by the Board at its meetings on February 23, 2022, and March 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 Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests preliminary and final site plan approval as aforesaid to erect a 50 unit senior independent living multi-family residential development for Age 62+ at premises located at 782, 784, 810 & 818 Valley Road, Block 24.01, Lots 11, 14, 15 & 18, which premises are located in an RA1 and Steep Slope zone; and

WHEREAS, the applicant requests approval to subdivide a portion of the property owned by St. George Greek Orthodox Church and merge the subdivided portion with existing Lot 14, for the purpose of constructing a 50-unit building for independent living for Age 62 and up with proposed new parking facility; and

WHEREAS, the applicant produced testimony from its architect, Douglas J. Coleman, AIA, PP; engineer, Tung-To Lam, PE; assistant project manager, Michael F. Dwyer, LLA, RLA; traffic expert, John Harter, P.E.; planning expert, Peter Steck, PP; and the CEO of the applicant, Roger Bernier; and

WHEREAS, the Board has the benefit of reports from its experts, Gregory Associates dated July 16, 2021, revised October 18 2021; Graviano & Gillis dated January 25, 2022; and Neglia Engineering dated July 16, 2021, revised October 15, 2021; and

WHEREAS, the following objectors were present: Michael Sica, Alessia Eramo, and Ann Schenkenberg; 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 a 50-unit senior citizen apartment development;
- b. Pursuant to N.J.S.A. 40:55D-2(l), one of the purposes of zoning is to encourage senior citizen community housing construction;
- c. Senior citizen housing is an inherently beneficial use;
- d. The proposal satisfies a need for senior citizen housing in the community;
- e. The proposal is consistent with and integrated with the other uses in the area;
- f. The proposal reduces the impact on the steep slope;
- g. There is adequate parking at the site, and the applicant has stipulated that there

will be 30 dedicated parking spaces available for the parishioners of St. George Greek Orthodox Church, and said spaces will be maintained by the applicant;

h. The proposal satisfies the positive and negative criteria required for the grant of a use variance;

i. The proposal will not have a detrimental effect on the community's environmentally sensitive areas;

j. The proposal will help to preserve the steep slope and will add significantly more plantings than the prior plan;

k. The drainage and sewer issues have been adequately addressed by the applicant's engineer and the Board's consulting engineer;

l. The proposal represents a more acceptable plan than the previous plan for 31 units which was previously granted by the Board, which approval is now eliminated;

m. The applicant has shown sufficient hardship to justify the grant of the bulk variances required;

n. 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 which encourages senior citizen housing construction as a major objective, and it will be in accord with the zone ordinance; and

WHEREAS, the Board further finds that the proposal will help promote the health, safety, and general welfare of the community by providing adequate parking and dedication of 30 parking spaces for the parishioners of St. George Greek Orthodox Church;

NOW THEREFORE, BE IT RESOLVED that the application to construct a 50-unit senior citizen apartment project at premises located at 782, 784, 810 & 818 Valley Road, Block 24.01, Lots 11, 14, 15 and 18, be and the same is hereby approved and further the subdivision to subdivide portions of Lot 15 and 18 from the existing lot and add those two sections to Lot 14 be and the same are hereby granted; and

BE IT FURTHER RESOLVED further that a D-1 use variance be and the same is hereby granted to permit the construction of the 50-unit senior citizen apartment; and

BE IT FURTHER RESOLVED that a D-5 density use variance be and the same is hereby granted where the ordinance requirement is 7 dwelling units per acre and the applicant is proposing 13.25 dwelling units per acre; and

BE IT FURTHER RESOLVED that a D-6 height use variance be and the same is hereby granted where 30 feet is permitted and applicant is proposing 41.5 feet; and

BE IT FURTHER RESOLVED that bulk variances be and the same are hereby granted for maximum impervious lot coverage (a) in the 15% slope area, 30% permitted, 47.2% proposed; (b) in the 15.1% to 25% slope area, 25% permitted, 48.8% proposed; (c) in the 25.1% to 30% slope area, 25% permitted, 25.3% proposed; (d) in the over 30% slope area 0% permitted, 2.4% proposed; and

BE IT FURTHER RESOLVED that bulk variances be and the same are hereby granted for maximum impervious coverage, 0% permitted, 12.5% proposed; Excavation in slopes in excess of 30%; Uppermost point of a cut slope higher than the top of the nearest downhill structure or building; and

BE IT FURTHER RESOLVED that bulk variances be and the same are hereby granted for the number of parking spaces as provided per RSIS, 68 spaces proposed, 79 spaces required; and

BE IT FURTHER RESOLVED that the approval previously granted by the Board for 31 units adopted September 18, 2019, be and the same is hereby superseded, eliminated, and null and void;

AND FURTHER SUBJECT TO such further governmental approvals as may be required by law and subject to the following:

1. Subject to compliance with all recommendations contained in the report of Neglia Engineering Associates dated July 16, 2021, revised October 15, 2021;
2. Subject to compliance with all recommendations contained in the report of Graviano & Gillis dated January 25, 2022;
3. Subject to the applicant granting a conservation easement to the City of Clifton so that nothing can be built above it up the mountain slope;
4. Subject to Passaic County Planning Board approval; and
5. Subject to 30 dedicated parking spaces for St. George's Greek Orthodox Church and maintenance of same by the applicant; 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 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 LOUIS DE STEFANO.

Seconded by: Comr MICHAEL MOLNER.

Affirmed by: Comrs Uri Jaskiel, George Silva, Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MARCH 2, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **YEVGENIY KANTOR**
for premises known as: **18 Ellsworth Street, Block 43.23, Lot 8.02**
be and the same is hereby: **DENIED** a left side yard setback variance and combined
side yard setback variance for a 10-foot-wide, second floor balcony on the left side of
the dwelling.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 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 deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval to erect a 10-foot-wide, second floor balcony on the left side of the dwelling at premises located at 18 Ellsworth Street, Block 43.23, Lot 8.02, which premises are located in an RB1 zone; and

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

- a. The applicants propose to build a 10-foot-wide second floor deck on the left side of the dwelling;
- b. The left side yard setback requirement is 6 feet, and the applicant proposes 2 feet;
- c. Combined side yard setback variance is required where 16 feet is required, and the applicant proposes 9 feet;
- d. Based upon the testimony presented by the objectors, the distance from the second floor balcony to the objectors' sideline is 2 feet, which is too close to the objectors' premises and violates their privacy and safety;
- e. The applicant has shown no hardship to justify the grant of the variances requested;
- f. The detriments of the application outweigh the benefits, if any; 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 due to the close proximity to the abutting neighbors' property; and

WHEREAS, the Board further finds that there has been 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 build a 10-foot-wide second floor balcony on the left side of the home at premises located at 18 Ellsworth Street, Block 43.23, Lot 8.02, be and the same is hereby disapproved and the variances for left side yard setback and combined side yard setbacks be and the same are hereby denied.

Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.
Seconded by: Comr MICHAEL MOLNER.
Affirmed by: Comrs Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MARCH 2, 2022.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: BARBARA QUINTANA & IVAN ENRIQUEZ for premises known as: 19-21 Lambert Avenue, Block 22.06, Lot 30 be and the same is hereby: GRANTED front yard setback variance to extend front porch and relocate front door.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 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 extend the front porch and relocate the front door at premises located at 19-21 Lambert Avenue, Block 22.06, Lot 30, 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 proposes to extend the front porch and relocate the front door at the subject premises;
- b. The front yard setback requirement is 25 feet, and the applicant is proposing 8.2 feet;
- c. The homes on the left and the right have similar setbacks;
- d. Approximately 90 percent of the homes in the neighborhood have similar setbacks;
- e. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- f. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application to extend the front porch and relocate the front door at premises located at 19-21 Lambert Avenue, Block 22.06, Lot 30, be and the same is hereby approved and the front yard setback variance be and the same is 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 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 MARCH 2, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **JIM BEIRNE**
for premises known as: **35 Englewood Road, Block 68.11, Lot 18**
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE** due to defective
notice.

THIS MATTER, coming on for hearing before the Board; and the Board has
determined that the notice is defective; thereupon, this matter

BE AND THE SAME is hereby dismissed without prejudice.

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 MARCH 2, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **ERIKA RYBACK**
for premises known as: **37 Jani Court, Block 39.05, Lot 39**
be and the same is hereby: **DENIED** a use variance for an oven in the basement.

Testimony concerning the aforesaid application was taken by the Board at its meeting on March 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 deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance to place an oven in the basement of a home at premises located at 37 Jani Court, Block 39.05, Lot 39, 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 proposes to place an oven in the basement of her home;
- b. The Ordinance permits one kitchen for a dwelling unit;
- c. The applicant has shown no hardship to justify the grant of the variance requested;
- d. The detriments of the application outweigh the benefits, if any;

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 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 an oven in the basement at premises located at 37 Jani Court, Block 39.05, Lot 39, be and the same is hereby disapproved and the use variance be and the same is hereby denied.

Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.
Seconded by: Comr GEORGE FOUKAS.
Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF MARCH 2, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **MESIVTA OF CLIFTON, INC.**
for premises known as: **369 Delawanna Avenue, Block 72.01, Lot 8**
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE.**

THIS MATTER, coming on for hearing before the Board; and the Board has determined that the notice is defective; thereupon, this matter

BE AND THE SAME is hereby dismissed without prejudice.

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 MARCH 2, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **QUICKS REALTY LLC**
for premises known as: **802 Van Houten Avenue, Block 36.10, Lot 16**
be and the same is hereby: **GRANTED** a one-year extension to expire on **March 17, 2023**.

THIS MATTER, coming on before the Board for a request to extend the variance approval which was granted on March 17, 2021, for an additional year; and the Board has considered this matter and agrees that the matter shall be extended for a one-year period to expire on March 17, 2023;

NOW THEREFORE, BE IT RESOLVED that the extension be and the same is hereby granted for a period of one year to expire on March 17, 2023.

Resolution moved by: Comr SCOTT SOCHON.
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.