

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, May 4, 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.

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

Upon motion made by Comr Scott Sochon, seconded by Comr Louis DeStefano, the Minutes of the April 20, 2022, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS

1. **BOTANY VILLAGE PROPERTY LLC,**
254 Dayton Avenue, Block 4.18, Lot 21
Prelim. & --PD1 – For preliminary and final major
Final Major site plan approval, use variance, bulk
Site Plan 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 to the June 1, 2022, meeting of the Board.

2.
Use
Variances;
Variances

EMPIRE REALTY MANAGEMENT CORP.,
94-96 Market Street, Block 68.03, Lot 43 – BC –
An approval to demolish the ALLWOOD
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.

Chrmn Zecchino read into the record a request for a continuation of the matter by counsel for the applicant. There was discussion that this matter has been on the Agenda for a considerable period of time, and no action has been taken.

Thereupon, Comr George Foukas moved to dismiss the matter without prejudice for lack of prosecution by the applicant and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the 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.

3. **MJG-MAR REALTY, LLC**, 42 Lakeview Avenue, Block 7.05, Lot 70 – B-C – Application for a use variance to permit use of the property previously occupied by the **GARDEN PLAZA BOWLING ALLEY** for a storage and distribution center for the sale of motor vehicle parts at retail and wholesale. The property is located in a B-C zone in which the sale at wholesale is not permitted.
- Use
Variance

Chrmn Zecchino read into the record a request for a continuation of the matter by counsel for the applicant. There was discussion that this matter has been on the Agenda for a considerable period of time, and no action has been taken.

Thereupon, Comr Michael Molner moved to dismiss the matter without prejudice for lack of prosecution by the applicant and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the 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.

4. **STORAGE BLUE CLIFTON, LLC**, 550 Lexington Avenue, Block 7.07, Lot 1 – B-C & RB2 – Applicant is requesting relief, if necessary, from any variances, approvals, waivers, and/or exemptions from any applicable provision of the Municipal Zoning Code of the City of Clifton necessary for approval of the application, to renovate the existing warehouse and change its use from a warehouse to a self-storage warehouse (“D” variance) plus the following bulk variances and final site plan approval:
- Use
Variance;
Variances

Bulk Requirements: B-C Zone (General Business District)

	<u>Permitted</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>
Lexington Ave Front Yard Setback	46 Ft.	42.32 Ft.	42.32 ft.	Existing
Minimum Front Yard Setback	5 Ft.	9.32 Ft.	9.32 Ft.	No
Minimum Rear Yard Setback	10 Ft.	RB-2 Zone	RB-2 Zone	N/A
Minimum Side Yard Setback	10 Ft.	RB-2 Zone	RB-2 Zone	N/A
Minimum Side Yard Setback (Both)	20 Ft.	N/A	N/A	N/A
Minimum Side Street Setback	5 Ft.	0 Ft.	0 Ft.	Existing
Maximum Lot Coverage	60%	55.58%	66.07%	Yes
Minimum Accessory Building Side Yard Setback	3 Ft.	N/A	N/A	N/A
Minimum Accessory Building Side Street Setback	25 Ft.	N/A	10 Ft.	Yes
Minimum Distance to Main Building	10 Ft.	N/A	5 Ft.	Yes

Bulk Requirements: R-B2 Zone R-B1 One-Family Residential Use)

	<u>Permitted</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>
Lexington Ave Front Yard Setback to (ft.)	46 ft.	B-C Zone	B-C Zone	N/A
Minimum Front Yard Setback (ft.)	25 ft.	B-C Zone	B-C Zone	N/A
Minimum Rear Yard Setback (ft.)	35 ft.	9.42 ft.	9.42 ft.	Yes
Minimum Side Yard Setback (ft.)	6 ft.	4.81 ft.	4.81 ft.	Existing
Minimum Side Yard Setback (Both)	16 ft.	N/A	N/A	N/A
Minimum Side Street Setback (ft.)	10 ft.	0 ft.	0 ft.	Yes
Maximum Lot Coverage (%)	27%	55.58%	66.07%	Yes
Maximum Accessory Building Height (ft.)	14 ft.	N/A	B-C Zone	N/A
Minimum Accessory Building Front Yard Setback (ft.)	60 ft.	N/A	B-C Zone	N/A
Minimum Accessory Building Side Yard Setback (ft.)	3 ft.	N/A	B-C Zone	N/A
Minimum Accessory Building Side Street Setback (ft.)	25 ft.	N/A	B-C Zone	N/A
Minimum Accessory Building Rear Yard Setback (ft.)	3 ft.	N/A	B-C Zone	N/A
Minimum Distance to Main Building (ft.)	10 ft	N/A	B-C Zone	N/A

Off Street Parking:

<u>Use</u>	<u>Parking Requirement</u>	<u>Total Required</u>	<u>Total Proposed</u>	<u>Variance Required</u>
Retail Store and Service Establishment (Liquor Store)	1.0 Space per 250 SF of Floor Area			
Shops, Mills, Factories, Warehouses, and Storages	2 Employees but not less than 1.0 space for each 2,000 SF of Floor Area	32 Spaces	17 Spaces	Yes (15 Spaces)
Houses (Self Storage)				

Loading Requirements:

<u>Use</u>	<u>Total Required</u>	<u>Total Provided</u>	<u>Variance Required</u>
Retail Store and Service Establishment (Liquor Store)	1.0 Loading Spaces		
Shops, Mills, Factories, Warehouses and Storage Houses (Self Storage)	3.84 Loading Spaces	2.0 Loading Spaces	Yes (3 Spaces)

Signage Bulk Table:

<u>Sign Type</u>	<u>Description</u>	<u>Ordinance</u>	<u>Permitted</u>	<u>Proposed</u>	<u>Variance</u>
Wall Sign #4	One (1) Proposed Wall Sign (Facing Seger Ave) 86.17 SF (5'-6" L x 15'-8" H)	\$461-54	Max Area = ((363.60 ft x 15) x (0.1)) = 545.4 S	86.17 SF	No (Yes- Non-Permitted Use)
Ground Sign #1	One (1) Proposed Ground Sign (Facing Lexington Avenue) 5.67 SF (1'-5" L x 4'-0" H) Each	\$461-55	Max Area = (53.10 Ft + 45.45 Ft) - 98.55 Ft x 2 = 197.10 SF Max Height = 20 Ft Max Front Yard Setback = 60 Ft	Area = 5.67 SF Height = 16 Ft Setback = 13 Ft	No No Yes

This matter was previously continued by the Board to the May 18, 2022, meeting of the Board.

NEW HEARINGS

1. **Variance** **GENNARO RUBINO**, 132 Rutgers Place, Block 27.11, Lot 3 - RA2 - Applicant is proposing a new 1 story addition which involves a rear yard setback. Required setback is 35' where 21' is being proposed.

The applicant, residing at 132 Rutgers Place, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests variance approval for a new one-story addition at the subject premises; that the rear yard setback requirement is 35 feet, and the applicant is proposing 21 feet.

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

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

2.
Use
Variance

MARJORY MITCHELL, 174 Sargeant Avenue, Block 36.01, Lot 27 – RB1 –
Applicant is proposing to convert an existing 1½-story frame accessory structure into living space changing the property from a one-family dwelling to a two-family dwelling. Per the ordinance for single- and two-family detached dwellings, there shall be only one principal structure per lot.

The applicant, Marjory Mitchell, and Chris Tingshino, residing at 174 Sargeant Avenue, Clifton, New Jersey, were present and affirmed to give testimony. There were no objectors.

Ms. Mitchell testified that she requests variance approval to convert an existing 1½ - story frame accessory structure into living space at the subject premises; that this proposal would change the property from a one-family dwelling to a two-family dwelling; that the Ordinance does permit two-family dwellings; that the Zoning Ordinance also requires that whether it is a single- or two-family dwelling, that there be only one principal structure per lot; that the purpose of the addition is to have a building as a rental or mother-in-law suite.

After a review of the testimony presented by the applicants, Comr Michael Molner moved to deny the application and instructed the Counsel Secretary to prepare the proper Resolution on the grounds that the applicant has shown no hardship to justify the approval of the application. 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.

3.
Use
Variance;
Variance

PASSAIC CLIFTON COMMUNITY KOLLEL CONGREGATION, 409-411 Main Avenue, Block 59.03, Lot 17 – B-B – Applicant proposes to connect the existing rabbinical study facility to the first floor of the existing 2 family dwelling and utilize that 1st floor for additional studies. (The second floor would remain residential.) Applicant also proposes to expand the current study area with a 370 sq ft addition to the front structure which requires the following variances: A use variance for the expansion of the previously approved nonconforming use and the existing mixed use on the property. Front yard setback is requested for 12.70 ft where 45' is required. In addition to the above, applicant is also seeking to extend its hours of operation. Current hours of operation are part of a previously approved application granted on 04/19/2017.

At the request of the attorney for the applicant, this matter was continued by the Board until the May 18, 2022, meeting of the Board.

4.
Use
Variance;
Variances

VK ACQUISITIONS VI, LLC, 90 Kingsland Avenue, Block 84.01, Lot 25.01 – M3 – For preliminary and final site plan, conditional use and variance approvals. The subject property is approximately 7.09 acres in size, and is currently improved with an approximately 9,173 square foot (“SF”) one story commercial building which, upon information and belief, has historically been used for automobile maintenance, repair and service. The remainder of the site is largely paved and has historically been used for automobile and other vehicular storage. It currently serves as an automobile inventory storage yard and service facility by a local automobile dealership. The Applicant is proposing to improve and utilize the Property for the parking and/or storage of automobiles, vans (fleet type), truck/trailer parking and storage and/or equipment storage within the existing outdoor parking areas of the Property, as well as continued repair and maintenance of vehicles or equipment within the existing one-story commercial building. No changes are proposed with respect to the existing commercial building, and no new buildings are proposed. The Applicant is proposing improvements within the site which includes repairs and restriping of the existing parking lot areas, upgraded lighting and landscaping. There are four proposed parking lot striping plans included within the site plan set submitted to the Board, which include layouts for truck storage, automobile parking, van (fleet) type parking and equipment storage.

The Applicant is seeking variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) and (d/3), including a D(1) use variance and D(3) conditional use variance relief to permit the use of the Property for outdoor storage/parking of automobiles, trucks, fleet vehicles and construction-type equipment due to the fact that the uses are not deemed a permitted use in the M-3 zone and/or do not meet all of the conditional use standards set forth in the Code. The Applicant is also seeking bulk variance pursuant to N.J.S.A. 40:55D-70(c)(1) and/or (c)(2) for the following:

1. To permit the use of LED lighting in the parking lot areas where it is currently not permitted.
2. Total Off-Street Parking Associated with the Existing Commercial Building-46 spaces required, 19 parking spaces proposed (9' by 19' in dimension).
3. To permit parking, loading and drive aisles in front yards of the Property (Section 461-60E).
4. Parking, Loading and Drive Aisle Setbacks – 10' to side yard/5' to front yard required (Section 461-60F). Proposal does not meet these minimum setback requirements along the Myrtle Avenue, Kingsland Avenue and Century Drive frontages.
5. Landscaping for Interior Parking. A minimum of 20 SF of landscaping is proposed for each parking space. (Section 461-60N). Less than the minimum is proposed.

In addition to the above approvals, the Applicant requests that the application be deemed amended to include, and that the Board grant any additional approvals, variances, exceptions, or waivers determined to be necessary or desirable in the review and processing of this application, whether requested by the Applicant, the Board or otherwise.

John P. Wyciskala, Esq., with offices at 600 Parsippany Road, Parsippany, New Jersey, appeared on behalf of the applicant. Present and sworn were the following on behalf of the applicant: Matthew Kunsman, PE, of Bohler Engineering, with offices at 30 Independence Boulevard, Warren, New Jersey; Brian McDonagh of Venture One, a principal of the applicant; Paul Going, PE, of Atlantic Traffic Design, 30 Independence Boulevard, Warren, New Jersey; and John McDonough, PP. There were no objectors.

Mr. Wyciskala stated that the applicant is proposing to improve and utilize the property for the parking and storage of vehicles, trucks/trailer storage and/or equipment storage within the existing outdoor parking areas of the property, as well as continued

repair and maintenance of vehicles or equipment within the existing building; that the applicant is seeking preliminary and final site plan approval to permit proposed improvements within the site which include repairs and restriping of the parking lot, upgraded lighting and landscaping; that the applicant submits four proposals for parking lot striping plans included within the site plan set, which include layouts for truck storage, automobile parking, van (fleet) type parking, and equipment storage; that the applicant is seeking a D1 use variance and a D3 conditional use variance to permit the use of the property for outdoor storage/parking of trucks, fleet vehicles and construction-type equipment; that a bulk variance is also requested with respect to the number of vehicle parking spaces associated with the existing maintenance and service building; that there is no new building or structures being proposed.

Matthew Kunsman testified as a professional engineer and gave testimony concerning four different parking area striping layout plans for the purpose of storage/parking of trucks, fleet vehicles, and construction equipment at the site; that he reviewed some of the comments set forth of the report of Neglia Engineering dated April 27, 2022.

In addition to the report of Neglia Engineering, the Board is in receipt of a report from its planner, Nicholas A. Graviano, of Graviano & Gillis Architects and Planners dated May 1, 2022.

Brian McDonagh of Venture One, the project manager, gave testimony walking the Board through the various proposals submitted by the applicant.

Chrmn Zecchino stated that the Board is presented with four separate plans, and the applicant has not indicated which of the four plans will happen at the site.

Mr. McDonagh responded that there is one way in and one way out of the site on Kingsland Avenue; that there is a proposal for 193 tractor trailers going in and out of the site each day; that the hours of operation will be from 7 A.M. to 7 P.M., seven days a week.

Paul Going testified as a traffic expert and stated that he prepared a report dated February 23, 2022, for the applicant; that the site in question is a 7 acre parcel of property; that in his report, his analysis included: 1) a review of the existing roadway and traffic conditions; 2) projection of additional traffic expected; 3) analysis of roadway and site driveway operations; 4) access, on-site circulation, and parking supply; and 5) recommendations and conclusions; that the peak hours of operation are generally from 8 A.M. to 9 A.M. in the morning and 4 P.M. to 5 P.M. in the afternoon; that he has conducted a study of the trip generations and analysis of current and future traffic conditions; that in his opinion, there is no negative impact on traffic conditions in the vicinity of the site; that there is a 9,103-square-foot building which requires 46 stalls, and the applicant is proposing 19 due to the unique nature of the proposal; that in his opinion, the proposal will not significantly impact traffic conditions in the site vicinity.

At this point in the hearing, Chairman Zecchino continued the matter in order for the applicant to supplement a traffic study as well as receipt of a report from the Police Department.

Thereupon, the matter was continued by the Board to June 1, 2022.

RESOLUTIONS

Chrmn Zecchino announced that the Board would act upon the Resolutions set forth on the Agenda:

1. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MAPLE GARDEN APARTMENTS, LLC for a d(5) use variance and bulk variances for parking stall size, five off-street parking spaces, parking in the front yard area, and 5-foot buffer from the parking area at 765 Clifton Avenue, Block 30.09, Lot 1, was adopted.

2. Upon motion made by Comr George Foukas, 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 GRANTING the application of YESICA RAMIREZ for a proposed driveway with 0 feet setback at 80 Mahar Avenue, Block 3.08, Lot 14, was adopted.

3. Upon motion made by Comr Zalman Gurkov, seconded by Comr George Foukas, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of AUGUSTO GONZALEZ & CELSA TAPIA for a 5-foot-high solid fence along the whole left side of the premises at 13 Whitmore Place, Block 8.13, Lot 12, was adopted.

4. 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 GRANTING the application of JOSHUA MC COY & SARLAIN SCOTT MC COY for side yard setback variance, combined side yard setback variance, and front yard setback variance for a new second floor expansion after fire damage at 11 Lincoln Place, Block 4.09, Lot 20, was adopted.

5. Upon motion made by Comr Zalman Gurkov, seconded by Comr John Foukas, 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 JBK ENTERPRISES, LLC d/b/a THE BARROW HOUSE for a d(3) conditional use variance to allow live music at the subject premises at 1292-1296 Van Houten Avenue, Block 34.04, Lot 29, was adopted.

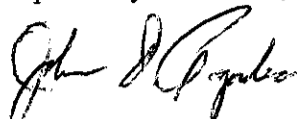
6. Upon motion made by Comr Scott Sochon, seconded by Comr Michael Molner, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of LAZO JOSIFOSKI for a subdivision at 112 Mt. Park Road, Block 22.01, Lot 16, was adopted.

COMMUNICATION

Chrmn Zecchino stated that the Board is in receipt of a communication requesting an extension of a variance granted to premises located at 50 East Normal Avenue, Upper Montclair, New Jersey, Block 74.09, Lot 15, given to the applicant, JENNIFER & BRADLEY COLWELL. Thereupon, Comr Michael Molner moved to approve a 90-day extension as permitted by the Zone Ordinance. The motion was seconded by Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the 90-day extension was granted.

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 MAY 4, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **EMPIRE REALTY MANAGEMENT CORP.**
for premises known as: **94-96 Market Street, Block 68.03, Lot 43**
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE** for lack of
prosecution by the applicant.

This matter, coming on for hearing by the Board; and the Board is in receipt of a request for an adjournment by counsel for the applicant; and after discussions concerning the length of time that the matter has been on the Board's Agenda; and the failure to provide plans; Comr George Foukas moved to dismiss the matter without prejudice for lack of prosecution by the applicant;

NOW THEREFORE, BE IT RESOLVED that the application to demolish the Allwood Theater and replace it with three additional new retail stores and construct a three-story, 26-unit senior citizens housing development at premises located at 94-96 Market Street, Block 68.03, Lot 43, be and the same is hereby dismissed without prejudice for lack of prosecution by the applicant.

Resolution moved by: Comr GEORGE FOUKAS.
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 MAY 4, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that
the application of: **MJG-MAR REALTY, LLC**
for premises known as: **42 Lakeview Avenue, Block 7.05, Lot 70**
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE** for lack of
prosecution by the applicant.

This matter, coming on for hearing by the Board; and the Board is in receipt of a request for an adjournment by counsel for the applicant; and after discussions concerning the length of time that the matter has been on the Board's Agenda; and the failure to provide plans; Comr Michael Molner moved to dismiss the matter without prejudice for lack of prosecution by the applicant;

NOW THEREFORE, BE IT RESOLVED that the application to permit use of the property previously occupied by the GARDEN PLAZA BOWLING ALLEY for a storage and distribution center for retail and wholesale of motor vehicle parts at premises located at 42 Lakeview Avenue, Block 7.05, Lot 70, be and the same is hereby dismissed without prejudice for lack of prosecution by the applicant.

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 MAY 4, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **GENNARO RUBINO**
for premises known as: **132 Rutgers Place, Block 27.11, Lot 3**
be and the same is hereby: **GRANTED** a rear yard setback variance for a one-story addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 4, 2022. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests rear yard setback variance for a one-story addition at premises located at 132 Rutgers Place, Block 27.11, Lot 3, which premises are located in an RA2 zone; and

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

- a. The applicant requests approval for a one-story addition;
- b. The rear yard setback proposed by the applicant is 21 feet, and the ordinance requires 35 feet;
- 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 rear yard setback variance for a one-story addition at premises located at 132 Rutgers Place, Block 27.11, Lot 3, be and the same is hereby approved and the variance for rear yard setback be and the same is hereby granted and further subject to such further governmental approvals as may be required by law subject to the following:

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

or plan amendments offered or required at the time of the hearing.

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

17. All utilities to be constructed underground.

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

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

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

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

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

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

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

Resolution moved by: Comr GEORGE FOUKAS.
Seconded by: Comr 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 MAY 4, 2022.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **MARJORY MITCHELL**
for premises known as: **174 Sargeant Avenue, Block 36.01, Lot 27**
be and the same is hereby: **DENIED** use variance to convert an existing 1½-story frame accessory structure into living space, changing the property from a one-family dwelling to a two-family dwelling.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 4, 2022. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Michael Molner moved to deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance as aforesaid to convert an existing 1½-story frame accessory structure into living space which is detached from the principal structure at premises located at 174 Sargeant Avenue, Block 36.01, Lot 27, which premises are located in an RB1 zone; and

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

- a. The applicant proposes to convert an existing 1½-story frame accessory structure into living space at the subject premises;
- b. The accessory structure is detached from the principal building at the site;
- c. The premises in question is located in the RB1 zone which permits one- and two-family dwellings;
- d. The purpose of the addition is to have a building as a rental or mother-in-law suite;
- e. The premises in question is presently a one-family structure, and the size of the lot is 75- by 100-feet;
- f. The applicant has shown no special reasons to justify the grant of the use variance;
- g. The Zoning Ordinance provides for only one principal structure per lot, and the applicant is proposing two structures;
- h. The applicant has not satisfied the positive and negative criteria required for the grant of a use variance;
- i. 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 which provides for one principal structure per lot; 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 convert an existing 1½-story frame accessory structure into living space at premises located at 174 Sargeant Avenue, Block 36.01, Lot 27, be and the same is hereby disapproved and the use variance be and the same is hereby denied.

Resolution moved by: Comr MICHAEL MOLNER.

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.