

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, May 17, 2023. 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 applications that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

PRESENT: COMRS DAVID BRAID, ALESSIA ERAMO, MAUREEN O’CONNOR, ZALMAN GURKOV, MICHAEL MOLNER, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO AND CHRMN MARK ZECCHINO.

ABSENT: COMR. SCOTT SOCHON

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

Upon motion made by Comr. Zalman Gurkov, seconded by Comr. Maureen O’Connor, the Minutes of the May 3, 2023 regular meeting were adopted with the unanimous approval of the entire Board.

REMANDED HEARING

1. **JOHN RADER**, 817-825 Clifton Ave., Block 35.06, Lot 16 – B-C – The Application was previously heard and denied by the Board in 2020. Following an appeal to the New Jersey Superior Court, Law Division, Docket No, PAS-L-309-21, the Superior Court reversed the December 2, 2020 decision of the Board and remanded the matter back to the Board for additional proceedings. The Applicant has modified the previously submitted plans to eliminate prior deviations regarding landscaping and buffering requirements for fast food restaurant uses abutting residential zones. Pursuant to the revised plans, the Applicant seeks preliminary and Final Site plan approval with a conditional use variance to remove the existing, non-conforming MOONEY AUTO REPAIR GARAGE, to enlarge the building housing the existing DUNKIN DONUTS building and add an additional food service use, two vestibule entrances to the two stores, and construct a drive-through window to the existing building. All other nonconformities are pre-existing and do not required variances. DENIED DECEMBER 2, 2020 – COURT-ORDERED REMAND.

At the request of the attorney for the applicant, this matter was continued by the Board until the June 7, 2023 meeting of the Board with no further notice required and all timing requirements tolled.

CONTINUED HEARINGS

1. **522 VALLEY ESTATES LLC**, 522 Valley Road, Block 32.01, Lot 12 – Steep Slope Dist
Use Variance;
Variances
The Applicant seeks approval to demolish the existing building and construct a new residential complex consisting of 20 townhouse/multifamily dwelling units within three (3) separate buildings, along with related site improvements, including but not limited to parking, landscaping and lighting. The Applicant seeks use variance relief pursuant to N.J.S.A. 40:55D-70(d)(6) for building height greater than permitted (35 ft. permitted; 44.99 ft. proposed). The Applicant also seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) and design waiver/exception relief, including: (1) Number of stories greater than permitted (3 stories permitted; 4 stories proposed); (2) Open space consisting of less than 25 ft. and located within 10 ft. of side or rear Property lines proposed where same is not permitted; (3) Soil proposed to be excavated in excess of 30% and on the cliff face where same is not

permitted; (4) Vertical cut greater than permitted (15 ft. permitted; 56 ft. proposed); (5) Building coverage for over 30% slope area greater than permitted (0% permitted; 1.8% proposed); (6) Impervious surface (lot) coverage for over 30% slope area greater than permitted (0% permitted; 4.5% proposed); (7) Open space for 25.1-30% slope area less than required (50% required; 46.9% proposed); (continued)
 (8) Open space for over 30% slope area less than required (100% required; 79.9% proposed); (9) Number of trees replaced less than required (87 trees required; 48 trees proposed); and (10) Ground sign proposed where same is not permitted. The Applicant also seeks any additional deviations, exceptions, design waivers, submission waivers, variances, use variances, conditional use variances, interpretations, de minimis exceptions to the State of New Jersey Residential Site Improvement Standards, continuations of any pre-existing non-conforming conditions, modifications of prior imposed conditions and other approvals reflected on the filed plans (as same may be further amended or revised from time to time without further notice) and as may be determined to be necessary during the review and processing of the Application.

At the request of the attorney for the applicant, this matter was continued by the Board until the June 21, 2023 meeting of the Board with no further notice required.

2. **833 CLIFTON AVE PARTNERS, LLC**, 833 Clifton Avenue, Block 35.07, Lot 1 - BC– Preliminary and final site plan approval, use variance, bulk variances and exterior LED lighting. The applicant seeks approval to construct a 3-story residential apartment building containing 26 one-bedroom units. Any and all additional variances that may be required.

At the request of the attorney for the applicant, this matter was continued by the Board until the June 21, 2023 meeting of the Board with no further notice required.

3. **MAIN FOOT AND ANKLE LLC**, 1610 Main St. & 80 W. 2nd St., Block 9.07, Lots 25 and 36 – B-C (Lot 26) and M-2 (Lot 25) – The applicant is proposing a consolidated subdivision of 1610 Main Avenue and 80 West 2nd Street. The applicant further proposes a 3-story mixed use building for medical offices and a retail pharmacy. A D1 use variance is requested in addition to any and all other variances as may be required.

At the request of the attorney for the applicant, this matter was continued by the Board until the June 21, 2023 meeting of the Board, with no further notice required.

NEW HEARINGS

1. **SASAN IMANI**, 32 Lorrie Lane, Block 71.03, Lot 24 – RA3 – The applicant is proposing a second-floor expansion and 3rd story addition which requires the following variances, side yard setbacks proposed at 4.9' and 4.5' where 6' is required, combined side yard setback proposed at 9.4' where 16' is required, proposing conversion of attic to 3rd story where 2 stories are permitted.

The applicant, residing at 32 Lorrie Lane, Clifton, New Jersey was present and sworn. There were no objectors.

The applicant testified that he is looking to expand the second floor in the front of his house in order to add more bedrooms. Chrmn Zecchino asked Zoning Officer Bolcato if the applicant is seeking to expand to an additional story. Zoning Officer Bolcato confirmed that this is the case.

The applicant testified that the expansion to the third floor is not really necessary but is a side effect of the design. Chrmn Zecchino inquired as to the size of the ceilings on the third floor reflected in the plans.

After a review of the testimony, Vice Chrmn Gerard Scorziello moved to grant the application moved to grant the application. The motion was seconded by Comr. Maureen O'Connor. Voting in favor of the Motion to approve the application were Comrs. Maureen O'Connor, Zalman Gurkov, and Vice Chrmn Gerard Scorziello. Voting against the Motion to approve were Comr. Alessia Eramo, Michael Molner, on the grounds that third floors are not permitted in the zone, George Foukas, on the grounds that prior applications have been denied for similar reasons, and Chrmn Mark Zecchino, on the grounds that the additional third floor would be living space. By a three to four vote, the motion failed.

Subsequently, no Motion to Deny was made or approved. As a result, the Matter was continued until the June 7, 2023 Meeting with no further notice required.

2. **MEIR KANIEL**, 174 Rutherford Blvd., Block 60.09, Lot 35 – BA3 –
Variances The applicant is proposing a second-floor addition and covered porch which requires the following variances, front yard setback proposed at 16.72' where 25' is required, two and a half stories being proposed where 2 stories is permitted, side yard setback proposed at 5.77' where 6' is required, and combined side yard proposed at 12.17' where 16' is required.

The applicant, residing at 174 Rutherford Blvd., Clifton, New Jersey was present and sworn. There were no objectors.

The applicant testified that he is seeking to add a second floor, as well as provide some updates to the main floor in order to provide bedrooms and bathrooms.

Chrmn Zecchino asked about the third floor and its purpose. The applicant testified that the purpose was for laundry in order to not bring laundry up and down multiple floors. Chrmn Zecchino expressed concern regarding the addition of living space on the third floor. The applicant stated that the goal of the design was to maximize the space on the second floor to accommodate all living needs, and the third floor would be strictly storage space. Chrmn Zecchino discussed ceiling height.

Comr. O'Connor asked about the basement laundry room and if that will continue. The applicant stated it was more practical to do laundry on the third floor. Chrmn Zecchino expressed concern of adding plumbing on the third floor.

Comr Eramo asked about the front yard setback and whether the porch is new. The applicant explained that the porch is existing and they will be covering it. Comr Eramo asked about the change to the existing footprint. The applicant stated that the back footprint will add pillars but will otherwise be unchanged. Comr Eramo asked about proposed final height of the house. The applicant reviewed the plans which state 26.1", where the variance permits up to 30.

After a review of the testimony, Comr. Michael Molner moved to deny the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Maureen O'Connor. Voting in favor of the Motion to deny the application were Comrs. Alessia Eramo, Maureen O'Connor, Michael Molner, George Foukas, and Chrmn Mark Zecchino. Voting against the Motion to deny were Comr. Zalman Gurkov and Vice Chrmn Gerard Scorziello, on the grounds that the application is an improvement to the home and the neighborhood. 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.

3. **YUNUS ERDURAN**, 96 Mountainview Drive, Block 27.06, Lot 9 - RA2
Variances The applicant is proposing to enclose current open porch which requires a front yard setback, 30 feet required and 22.82' is being proposed.

The applicant, residing at 96 Mountainview Drive, Clifton, New Jersey was present and sworn. There were no objectors.

The applicant testified that he has an existing front porch that he wants to enclose. He does not intend to construct anything beyond existing poles. This change will assist his family as his children get older. He testified that there is already a roof and lights.

Chrmn Zecchino asked Zoning Officer Bolcato about existing ordinances and Zoning Officer Bolcato responded that the issue is the front yard setback. The applicant stated he will only construct three walls and a door.

After a review of the testimony, Comr. Michael Molner moved to grant the application on the grounds that the applicant is not expanding any nonconformity and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Gerard Scorziello. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, 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.

4. **ALEX MUNOZ**, 58 Warren Street, Block 22.13, Lot 36 – RA3 – The applicant is proposing a second floor addition over existing footprint which requires the following variances, side yard setback proposed at 5'2" where 6' is required.

The applicant, residing at 58 Warren Street, Clifton, New Jersey was present and sworn. There were no objectors.

The applicant testified that he wants to build a partial second floor addition in the rear of the home. The applicant stated that on the left of the house there is a slight encroachment on the side which needs a variance. The applicant stated that there is no change to the existing footprint

After a review of the testimony, Comr. Zalman Gurkov moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Gerard Scorziello. Voting in favor of the Motion to approve the application were Comrs. Maureen O'Connor, Zalman Gurkov, Michael Molner, 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.

5. **STEINMAN FAMILY RESIDENCE TRUST**, 43 Rowland Ave., Block 50.04, Lot 18 – R-B1 – The applicant seeks approval to modify the existing two-family residential dwelling in the R-B1 zoning district. The applicant requests a variance to add a deck in the rear of the house. Currently the max lot coverage is 25% and the existing coverage is 29.76%. The proposed coverage would be 35.58%. The other dimensions are existing non-conforming, including the lot area, front yard and side yard setbacks. The Applicant also request any and all variances that the Board may deem necessary or the applicant may require.

Benjamin Karfunkel, Esq., of, Karfunkel Law Firm, 498 Passaic Avenue, Passaic, NJ 07055 appeared on behalf of the applicant. Also present and sworn were the two trustees of the Steinman Family. There were no objectors.

Mr. Karfunkel stated that the applicant sought a variance to construct a rear yard deck. This variance is a lot coverage variance, and the deck will allow the Steinman family to access the backyard. Ms. Steinman testified that the home was purchased in 2022 and is a two family home, which is currently being used as a one family home. Ms. Steinman testified that other neighbors have a deck and would be in character of the rest of the neighborhood.

Mr. Karfunkel asked Ms. Steinman about the lot size and Ms. Steinman testified that the lot is slightly smaller.

Mr. Karfunkel offered a closing statement and expressed that hardship exists due to the use of stairs due to the age of the residents and that the variances were in character with other uses in the neighborhood.

After a review of the testimony, Comr. Michael Molner moved to grant the application on the ground that even with the variance there would be still be sufficient setback and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Maureen O'Connor. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, 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.

6. **LUIS AND JESSICA COLLI**, 22 Burgh Avenue, Block 11.11, Lot 26 – R-B2 – The applicant is seeking to convert the property from a single-family home to a two-family home. The applicant is seeking to expand a variance for lot area per dwelling unit where existing is 4,046.60 and proposed is 2,023.30 based upon the proposed conversion of the home to a two-family home and a variance for one (1) parking space since four (4) off-street parking spaces are required. The other variance is for lot area where 7,500 square feet is required, and the existing lot is 4,046.60. All renovations would be to the interior, second floor which would only contain a one bedroom along with a kitchen, dining/living room, bathroom and small room which is labeled as an office on the said plans.

Alfred Acquaviva, Esq., of Acquaviva Law Offices, LLC, with offices at 1114 Goffle Road, Suite 203, Hawthorne, New Jersey 07506, appeared on behalf of the applicant. Present on behalf of the applicant and sworn to give testimony were the following: Vicente Varela JR, Varela Architecture and Design, 584 Main Ave, Passaic, NJ, an architect. Also present and sworn were the applicant, Luis and Jessica Colli. There were no objectors.

Mr. Acquaviva provided a brief opening statement explaining that the building is a 2 family home and has been operated as a single family home. The second floor is set up for a standalone apartment. The applicant purchased it recently from a family member who owned the home for over 40 years. The applicant seeks to use the home as a 2 family home and rent the second floor apartment, and is willing to comply with all requirements of the Building Department.

Mr. Varela testified regarding the plans. He testified that the second floor has two bedrooms and bathrooms. The second floor has exterior separate access. Previously, there were two bedrooms and currently there is one bedroom on the second floor, a kitchen, a bathroom, and a small office which is not useful as a bedroom.

Mr. Varela testified that the first floor rooms and off-street parking. Mr. Varela stated that the property has 2 off-street parking spaces, and that the property has plenty of public transportation options.

Mr. Varela testified that the neighborhood has several two family homes in the area and that he presumes that they have the same size lot. Mr. Varela stated that the changes would comply with the character of the neighborhood.

Chrmn Zecchino stated that he drove by the area and stated he observed a number of single mailboxes, as opposed to double. He stated that the lot is smaller. He asked Zoning Officer Bolcato about paperwork related to the changes and conversions. Ms. Bolcato stated that there was no documentation. He stated that the conversion was likely done illegally. He stated that the application also has an issue with complying with the parking requirements as 4 spaces are required. He stated he believed this application was an overuse.

Mr. Acquaviva stated that the second floor is actually a second apartment, and the applicant is seeking only to use the property as it was intended when it was built. He stated that the apartment itself is small and would not be occupied by a family. He stated that the size of the lot itself created a hardship.

Chrmn Zecchino stated that there is no documentation of when the second kitchen was constructed. He asked for more information regarding the hardship as to the need for the two family home, particularly when the lot is smaller and parking requirements are not met.

Vice Chrmn Scorziello asked Mr. Varela about the lot dimensions. Mr. Varela stated that 37 x108 is the lot size, or 4,046 sq ft.

Comr Foukas asked, other than monetary gain, how the application enhances the Master Plan. Mr. Acquaviva stated that he was unaware that the house was deemed to have an illegal second floor apartment. He stated that the application is just seeking to do what the property was constructed to do. Mr. Acquaviva stated that the second floor is existing, why not use it as a separate unit.

Comr. Molner asked about the basement powder room and whether there was direct access from the basement to the outside. Mr. Varela stated that access from the outside may exist.

Mr. Acquaviva called applicant Luis Colli as a witness. He testified it was his grandparents house. When his grandparents purchased the house, they lived on the second floor and the great grandparents lived in the first floor. The grandparents constructed the outside access to the second floor apartment. Mr. Colli stated that the neighbors nextdoor and across the street are also 2 family homes. He stated his mother in law lives on the first floor and she cannot pay rent on her own due to her disability. He seeks to use the second floor to off set his mother in laws rent.

Chrmn Zecchino expressed sympathy for the applicant but stated that he did not see a viable hardship other than the financial hardship of the first floor tenant. The applicant stated that the application was necessary to avoid selling the house as it has been in his family for the long time.

Chrmn Zecchino asked Zoning officer Bolcato if the neighboring properties were legal 2 families and Ms. Bolcato stated she needed to review records to confirm.

Mr. Acquaviva provided a brief closing statement. He stated that the poprerty is undersized and that the property could be used, unfortunately, as an illegal apartment. He stated that they are seeking to make the apartment legal and would be willing to bring everything up to code.

After a review of the testimony, Vice Chrmn Gerard Scorziello moved to deny the application, on the grounds that there was not sufficient hardship presented and that this was an overuse of the property, and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Michael Molner. Voting in favor of the Motion to deny the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, on the grounds that there is no legality of the second apartment, George Foukas, with empathy for the applicant, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, expressing empathy but concern over the lot size. 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.

7. **ZEKI YESILYURT**, 223 (225) Lakeview Ave., Block 2.11, Lot 66 – B-Variances; Use C - The applicant is requesting a D1 use variance to convert a multitenant Variance office building to a mixed-use office and residential building. First floor to remain as commercial use and second floor requesting to keep two 2-bedroom apartments which were previously converted from office space. Any and all other variances as may be required.

The applicant, residing at 223 (225) Lakeview Ave, Clifton, New Jersey was present and sworn. There were no objectors.

The applicant testified that he purchased the property in 2012. He testified that he has used it as an office space, but now the demand is for an apartment. The first floor was a dental office, and the second floor was also office space with two full bedrooms, two full baths, and a kitchen. The property was constructed this way upon purchase.

The Board's Planner, Nicholas Graviano of Graviano & Gillis, stated that he did research on the property. The property was previously 4 separate office spaces that became 2 apartments based on city records. Zoning Officer Bolcato stated that she pulled all relevant records and none of the modifications were reflected in this paperwork.

Chrmn Zecchino inquired if this use would be less intrusive as there would be less foot traffic. Mr. Graviano stated that the parking requirements would be impacted based on the use.

Comr. Molner asked about existing parking. The applicant stated that he currently has 13 parking spaces and there is an easement for additional parking. The applicant confirmed he would be able to comply with the parking requirements.

Mr. Graviano stated that there is shared parking in the back and recommend that a formal deed be recorded documenting that easement. He suggested that the applicant work with the Board attorney to confirm that the easement be recorded. The applicant stated he would be willing to agree to this requirement.

Mr. Graviano stated that the applicant needs to record the deed easement with Passaic County. He recommended that the applicant contact an attorney to draw up an easement, which would be a condition of the approval.

Mr. Graviano also addressed the issue of the fact that apartments were previously constructed without permits and the Board should require that the applicant complete all construction in accordance with code and requirements. Zoning Office Bolcato confirmed that her office would work with the applicant to ensure compliance with all requirements of the Building Department

As a condition of approving the property, the Board instituted the following stipulations: the applicant will provide formal documentation of the recorded easement, and the applicant will consult and work with the Board's professionals to ensure that all construction is completed in accordance with City Code and Ordinance and consistent with the Master Plan.

After a review of the testimony, Vice Chrmn Gerard Scorziello moved to grant the application with the noted stipulations and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Michael Molner. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, 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.

8. **ANTHONY'S TOWING**, 454 Allwood Road, Block 69.01, Lot 31 – M-Variances; Use 2 - The applicant is requesting a use variance for the use of a rear Variance; Site Plan warehouse space of an existing building as a towing yard for indoor storage of vehicles. Applicant is further requesting two uses on one lot and a site plan waiver. Any and all other variances as may be required.

Dominic Iannarella, Esq., 139 Lakeview Avenue, Clifton, NJ appeared on behalf of the applicant. Present on behalf of the applicant and sworn to give testimony were the following: Michael Capo, Architect, 1037rt 46 E, Suite G5, Clifton, New Jersey. Also present was Rosario Rizzo, of the applicant Anthony's Towing.

There were no objectors.

Mr. Capo testified on behalf of the applicant. Mr. Capo stated that the main changes were to create a towing yard and indoor storage of vehicles.

Mr Rizzo testified regarding other requirements he has gone through as part of this application. He testified that he contacted the Clifton Police regarding approval and that indoor storage would help the Police Department.

Mr. Rizzo offered the following Exhibits:

Exhibit A-1 – Email from the Clifton Police dated May 17, 2023.

Mr. Rizzo stated that there will be a battery operated forklift to maneuver cars, and that only he and his son will be moving cars.

Chrmn Zecchino asked about the procedure. The applicant stated that they go pick up a car that needs repair or towing and it is stored on his property until it is picked up. Some cars stay multiple days and other times cars are picked up next day and the length of time depends on the circumstances of the individual case.

Vice Chrmn Scorziello asked about the circumstances why a car would be left for multiple days. The applicant stated that the situation could be that the car was in an accident, there was no insurance, and the owner could not afford to pay the towing fees. The length of time in that circumstance could be 60-90 days. The applicant confirmed that all cars for all lengths of time will be stored inside.

Comr. Molner asked if the businesses trucks will be stored on this property. The applicant testified that they will be stored off-site.

After a review of the testimony, Comr. George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Zalman Gurkov. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, 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.

9. **MEHUL ADHVARYU, 50 Market Street, Block 68.03, Lot 26 –B-C –**
Variances; Use The applicant is requesting a use variance and conditional use variance to
Variance convert the existing retail store into a sit-down restaurant and bar. A similar application was heard by the board of adjustment and denied on 12/3/2008 but we will testify that substantial material changes have been made in this new application. Any and all other variances as may be required by the board.

Dominic Iannarella, Esq., 139 Lakeview Avenue, Clifton, NJ appeared on behalf of the applicant. Present on behalf of the applicant and sworn to give testimony were the following: Michael Capo, Architect, 1037rt 46 E, Suite G5, Clifton, New Jersey, Nikhil Mastakar, applicant, and Mehul Adhvaryu, applicant. There were no objectors.

Mr. Iannarella stated that the applicant sought a use variance to convert existing retail use to a sit down restaurant and bar. The applicant is currently operating a similar business in the area.

Mr. Capo testified on behalf of the applicant. He testified that there are 2 buildings on site and 2 parking spots. He testified that the bar will be located in house and will be centrally located in the restaurant. The restaurant will seat 57 people. Bathrooms will exist and compl with all requirements. The existing building façade will not be changed other than signage.

Comr Foukas asked why this application is different from the 2008 application. Mr. Iannarella stated that the issues with the 2008 application included the fact that the adjacent lot was not owned by the applicant and impacted the availability for parking. Currently, the owner now owns the adjacent property. Further, at the time there were a number of restaurants in the area and now there are less restaurants. The present applicant operate another restaurant up the street, but this concept will be different. Mr. Iannarella stated that the new criteria are met by this new applicant.

Vice Chrmn Scorziello asked the applicants if they own the other business and confirmed that the are good neighbors. He acknowledged that the applicants are present at the other business, and the applicant will be present and operate both locations.

Comr Foukas asked for a reciprocal parking agreement to be in place in the event that the owner sells the adjacent property. Mr. Iannarella stated that the applicant would agree to this stipulation, and that the owner submitted a letter of support.

Mr. Mastakar testified regarding the comments given by the Board's Planner. Mr. Mastakar testified regarding the working hours of operation, and deliveries in the morning which will take place in the back. Mr. Mastakar testified that there will be 6 employees present at the time. Mr. Mastakar testified that there will be garbage and recycling hauling once a week in the morning prior to opening.

Mr. Graviano asked about the dumpster. Mr. Mastakar stated that an additional dumpster will be added and that pick up will be done after 7 am.

Mr Iannarella offered a closing statement. He stated that the application satisfies both the positive and negative criteria, and will be expansion of business for two proven business owners who serve and participate positively in the neighboring community. He stated that there are material changes from the prior application which satisfies the requirements.

As a condition of approving the property, the Board instituted the following stipulations:
1. The applicant shall provide a reciprocal parking agreement with the adjacent property.

After a review of the testimony, Comr. George Foukas moved to grant the application with the noted stipulations and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Gerard Scorziello. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, 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.

10. **GALLERY HOUSE PUB LLC**, 312 Clifton Avenue, Block 12.05, Lot 22 – B-C, Main Ave Overlay – The applicant seeks an outdoor café license for 2023 and appeals the denial of the outdoor café license for 2022 on the basis of the existence of exterior signage which is face lit (box lighting lit up from within the sign), the presence of string lighting on the façade and the presence of a blue colored awning. Approval of the outdoor café license is sought despite the face lit signage and blue awning approval of the face lit signage is sought and approval of the blue awning is sought. If and as necessary, the applicant requests a variance from City of Clifton Code Section 461-53p 2 to allow retention of the blue awning as allowed under Code Section 464-23.3 D (1) and to allow retention of the lighted box sign which would otherwise be in violation of Code Section 461-24.3 E. (6). Approval is also sought for the string lighting on the façade of the building if such approval is required. The applicant requests any other variances, waivers, exceptions, or other relief that may be necessary.

In accordance with the May 12, 2023 correspondence from Dennis H. Sabourin, Esq., attorney for the applicant, the applicant requests the withdrawal of the pending matter.

After a review of the testimony, Comr. Michael Molner moved to dismiss the application without prejudice and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Gerard Scorziello. Voting for approval were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was dismissed without prejudice in the form as more fully appears at the end of these Minutes.

RESOLUTIONS

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

1. Upon motion made by Comr Michael Molner, seconded by Comr. George Foukas, and affirmed by Comrs. David Braid, Alessia Eramo, Maureen O'Connor, Scott Sochon, Michael Molner, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of BANK OF AMERICA, NATIONAL ASSOCIATION for variance approval for signage improvements at the bank branch, which include the replacing of two existing signs for premises located 1045 Clifton Avenue, Block 41.04, Lot 2, was adopted.

There being no further business before the Board, Comr. George Foukas moved to adjourn. The motion was seconded by Vice Chrmn Scorziello with the unanimous approval of the entire Board.

Respectfully submitted,

Jaclyn M. Morgese

JACLYN M. MORGESE, ESQ.
COUNSEL SECRETARY

MEETING OF MAY 17, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **MEIR KANIEL**
for premises known as: **174 Rutherford Blvd., Block 60.09, Lot 35**
be and the same is hereby: **DENIED** a request for variances to construct a second-floor addition and covered porch which would result in two and a half stories where only two stories are permitted.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 17, 2023. 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 variances in order to construct a second floor addition and covered porch; and

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

- a. The applicant testified that he is seeking to add a second floor to his home as well as complete updates to the main floor; and
- b. The purpose of the renovation is to add bedrooms and bathrooms for the applicant's growing family; and
- c. The plans presented in the application demonstrate that a half story will be added beyond the second floor; and
- d. The applicant testified that the purpose of this additional story was to create an additional laundry room; and
- e. No testimony was provided that the basement laundry room would be eliminated or replaced;
- f. Current ordinances prohibit third story living space; and
- g. The applicant has failed to show sufficient hardship to justify the grant of the variance requested;
- h. 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; and

WHEREAS, the Board further finds from the testimony presented that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the request for variances to construct a second-floor addition and covered porch which would result in two and a half stories where only two stories are permitted for premises located at 174 Rutherford Blvd., Block 60.09, Lot 35, is hereby denied.

Resolution moved by: Vice Chrmn MICHAEL MOLNER
Seconded by: Comr. MAUREEN O'CONNOR
Affirmed by: Comrs. Alessia Eramo, Maureen O'Connor, Michael Molner, George Foukas, and Chrmn Mark Zecchino.

MEETING OF MAY 17, 2023.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: YUNUS ERDURAN for premises known as: 96 Mountainview Drive, Block 27.06, Lot 9 be and the same is hereby: GRANTED a front yard setback variance to enclose a current open porch.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 17, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant is seeking a front yard setback variance to enclose an existing open porche; and

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

- a. The applicant has an existing open front porch ; and
- b. The applicant testified that he seeks to enclose the open front porch by constructing three walls and a roof; and
- c. The applicant testified that there are poles on the existing porch and he does not intend to construct anything beyond such poles; and
- d. The applicant testified that the purpose of this construction is for the safety of his family; and
- e. The applicant's testimony demonstrates there will be no expansion of any nonconformity other than what currently exists;
- g. The applicant has shown sufficient hardship to justify the grant of the variance 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; and

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

NOW THEREFORE, BE IT RESOLVED that the application for a front yard setback variance to enclose a current open porch for premises located at 96 Mountainview Drive, Block 27.06, Lot 9, is hereby approved and the variances 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 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 the 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, are 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:
Seconded by:
Affirmed by:

Comr. MICHAEL MOLNER
Vice Chrmn GERARD SCORZIELLO
Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.

MEETING OF MAY 17, 2023.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ALEX MUNOZ for premises known as: 58 Warren Street, Block 22.13, Lot 36 be and the same is hereby: GRANTED a side yard setback variance to construct a second floor addition over the existing footprint.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 17, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr. Zalman Gurkov moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant is seeking a side yard setback variance to construct a second floor addition over the existing footprint of the property; and

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

- a. The applicant testified that he seeks to build a partial second floor addition in the rear of his home ; and
- b. The applicant testified on the left side of his house, there is a slight encroachment which requires a variance; and
- c. The applicant testified that there will be no change to the existing footprint of the home; and
- d. The applicant has shown sufficient hardship to justify the grant of the variance 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 proposed addition will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a side yard setback variance to construct a second floor addition over the existing footprint for premises located at 58 Warren Street, Block 22.13, Lot 36, is hereby approved and the variances 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 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 the 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, are 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:

Seconded by:

Affirmed by:

Comr. ZALMAN GURKOV

Vice Chrmn GERARD SCORZIELLO

Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino.

MEETING OF MAY 17, 2023.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: STEINMAN FAMILY RESIDENCE TRUST
for premises known as: 43 Rowland Ave., Block 50.04, Lot 18
be and the same is hereby: GRANTED a lot coverage variance, as well as variances for existing non-conformities, to construct a rear deck.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 17, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant is seeking variances for lot coverage, and other existing non-conformities, in order to construct a rear deck; and

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

a. The applicant testified that they intend to construct a rear deck to permit the residents to access the backyard of the property ; and

b. The applicant testified that constructing the deck would result in the expansion of the maximum lot coverage beyond what is permitted by the ordinance; and

c. The applicant testified that presently, lot coverage is an existing non-conformity and construction would slightly expand such non-conformity; and

d. The applicant provided testimony that other existing non-conformities, including those for lot area, front yard, and side yard setbacks, will continue, but shall not be enlarged by construction of the deck;

e. The applicant provided testimony that hardship exists due to the use of stairs as the age of the residence increases; and

f. The applicant provided testimony that the variances sought were of the same character with other uses and properties in the neighborhood; and

g. The applicant has shown sufficient hardship to justify the grant of the variance 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; and

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

NOW THEREFORE, BE IT RESOLVED that the application for a lot coverage variance, as well as variances for existing non-conformities, to construct a rear deck for premises located at 43 Rowland Ave., Block 50.04, Lot 18, is hereby approved and the variances 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 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 the 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, are 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:
Seconded by:
Affirmed by:

Comr. MICHAEL MOLNER
Comr. MAUREEN O'CONNOR
Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.

MEETING OF MAY 17, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **LUIS AND JESSICA COLLI**
for premises known as: **22 Burgh Avenue, Block 11.11, Lot 26**
be and the same is hereby: **DENIED** variances to convert the property from a single family home to a two-family home.

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 17, 2023. 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 seeks to convert the property from a one family home to a two family home; and

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

a. The applicant testified that the property is a two family home that has been utilized as a one family home, and that the applicants seek to now use the property as it was originally intended in order to rent out the second floor apartment ; and

b. The applicant testified the second floor apartment has separate exterior access; and

c. The applicant testified there are several other two family home in the same neighborhood; and

d. The applicant testified that the property has been in his family for over 40 years and its conversion to a two family home occurred prior to his ownership of the residence and he has no knowledge of that conversion or construction; and

e. The applicant testified that a hardship existed due to financial constraints and the applicant needs to rent the second floor apartment in order to financially support ownership of the property; and

f. The testimony provided demonstrates that there is no documentation on file with the City of Clifton demonstrating that the original construction and conversion of the property from a single family home to a two family home was completed with the property permits;

g. The applicant has failed to show sufficient hardship to justify the grant of the variance requested;

h. 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; and

WHEREAS, the Board further finds from the testimony presented that the proposal will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a lot coverage variance, as well as variances for existing non-conformities, to construct a rear deck for premises located at 22 Burgh Avenue, Block 11.11, Lot 26, is hereby denied.

Resolution moved by: Vice Chrmn **GERARD SCORZIELLO**
Seconded by: Comr. **MICHAEL MOLNER**
Affirmed by: Comrs. **Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino.**

MEETING OF MAY 17, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **ZEKI YESILYURT**
for premises known as: **223 (225) Lakeview Ave., Block 2.11, Lot 66**
be and the same is hereby: **GRANTED a D1 use variance to convert a multitenant office building to a mixed-use office and residential building.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 17, 2023. 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 is a use variance to convert a multitenant office building to a mixed use office and residential building; and

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

a. The applicant testified the property was previously used as an office space but due to current demand he seeks to use a portion of the property as a rental apartment; and

b. The applicant testified that when he purchased the property in 2012, both floors were office space, but the second floor had two full bedrooms, two full bathrooms, and a kitchen; and

c. The applicant testified that all construction was completed prior to his ownership of the building, that he has no knowledge regarding construction, and that he has not completed any construction since owning the property; and

d. The Board's Planner provided information that City Records demonstrated that the building was previously 4 separate offices that became 2 separate apartments; and

e. The testimony provided demonstrates that there is no documentation on file with the City of Clifton demonstrating that the original construction and conversion of the property was completed with the property permits;

f. The applicant testified that he has an easement with the adjoining property to permit commercial parking and that he would be willing to stipulate to the documentation of and recording of such easement; and

g. The applicant has stipulated that:

1. The parking easement will be formally drafted into a deed easement which will be recorded with Passaic County and provided to this Board; and

2. The applicant will work with the City's Zoning Office to ensure that construction is completed in accordance with local code and City requirements; and

h. The applicant has shown sufficient hardship to justify the grant of the variance requested;

i. 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 proposed addition will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a D1 use variance to convert a multitenant office building to a mixed-use office and residential building for premises located at 223 (225) Lakeview Ave., Block 2.11, Lot 66, is hereby approved and the variances 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 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 the 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, are 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:
Seconded by:
Affirmed by:

Vice Chrmn GERARD SCORZIELLO
Comr. MICHAEL MOLNER
Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.

MEETING OF MAY 17, 2023.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ANTHONY'S TOWING
for premises known as: 454 Allwood Road, Block 69.01, Lot 31
be and the same is hereby: GRANTED variances to permit usage of a rear warehouse space as a towing yard for indoor storage of vehicles, two uses on one lot, and a site plan waiver.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 17, 2023. 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 is seeking variances to permit usage of a rear warehouse space as a towing yard for indoor storage of vehicles, two uses on one lot, and a site plan waiver; and

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

- a. The applicant's expert testified that the applicant seeks to construct a towing yard to permit indoor storage of vehicles; and
- b. The applicant testified that when a car needs to be towed, it sometime may need to be stored until it is picked up, and that such storage could range from a few hours to a few days
- c. The applicant testified that there will be a battery operated forklift to maneuver cars, so as to permit the flow of cars in and out of the towing yard as needed; and
- d. The applicant provided documentation from the Clifton Police Department demonstrating the CPD's approval and the need for a towing yard and indoor storage of this kind; and
- e. The applicant testified that only towed vehicles will be stored on the site and any business vehicles will be stored elsewhere; and
- f. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- g. 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 proposed addition will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for variances to permit usage of a rear warehouse space as a towing yard for indoor storage of vehicles, two uses on one lot, and a site plan waiver for premises located at 454 Allwood Road, Block 69.01, Lot 31, is hereby approved and the variances 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 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 the 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, are 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:
Seconded by:
Affirmed by:

Comr. GEORGE FOUKAS
Comr. ZALMAN GURKOV
Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.

MEETING OF MAY 17, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **MEHUL ADHVARYU**
for premises known as: **50 Market Street, Block 68.03, Lot 26**
be and the same is hereby: **GRANTED a use variance and conditional use variance to convert existing retail store into a sit-down restaurant and bar.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on May 17, 2023. 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 seeks a use variance and conditional use variance to convert existing retail store into a sit-down restaurant and bar; and

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

a. The applicant currently operates another restaurant in town and that such restaurant is successful; and

b. The applicant's expert testified that the restaurant will be constructed to seat 57 people and that the bar will be centrally located; and

c. The applicant's expert testified that the existing façade of the building will not be altered other than signage; and

d. The applicant provided testimony regarding the hours of operation and that approximately 6 employees will be present at any time; and

e. The applicant testified that deliveries will occur in the morning and in the rear of the property; and

f. The applicant testified that a dumpster will be added and that garbage and recycling hauling will occur once a week prior to opening, but that pickup will be done after 7 am; and

g. The applicant provided testimony that the site is particularly suitable for the use; and

h. The applicant provided testimony that the use is consistent with the intent and purpose of the master plan; and

i. The applicant testified that a similar application was submitted in 2008, but that this application differs from that matter heard by the Board for the following reasons:

1. The current applicants are tenants to the property as opposed to the owner of the property itself; and

2. The current owner of the property has acquired the adjacent lot which increases the availability for parking; and

3. The current owner of the property consents and encourages this application; and

4. Due to the passage of time, there is no longer a high number of restaurants already open and operating in the area; and

j. The applicant provided sufficient testimony demonstrating that the current application is substantially different than the 2008 application; and

k. The applicant has shown sufficient hardship to justify the grant of the variance requested;

1. 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 proposed addition will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a use variance and conditional use variance to convert existing retail store into a sit-down restaurant and bar for premises located at 50 Market Street, Block 68.03, Lot 26, is hereby approved and the variances 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 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 the 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, are 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: Vice Chrmn GERARD SCORZIELLO
Affirmed by: Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino.

MEETING OF MAY 17, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **GALLERY HOUSE PUB LLC**
for premises known as: **312 Clifton Avenue, Block 12.05, Lot 22**
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE** at the request of the applicant.

THIS MATTER, coming on for hearing before the Board for testimony at its meeting of May 17, 2023; and

WHEREAS, the Applicant has requested the dismissal of this application without prejudice; and

BE AND THE SAME is here by dismissed without prejudice.

Resolution moved by: Comr. MICHAEL MOLNER
Seconded by: Vice Chrmn GERARD SCORZIELLO
Affirmed by: Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino