

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, August 16, 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, SCOTT SOCHON, MICHAEL MOLNER, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO AND CHRMN MARK ZECCHINO.

ABSENT: NONE.

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.

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. Site plan approval required to remove the existing MOONEY AUTO REPAIR GARAGE, to enlarge the building housing the existing DUNKIN DONUTS building, to create an additional store, two vestibule entrances to the two stores and a drive-in facility. A bulk variance is required to permit the use of lighting other than the ordinance required high-pressure sodium lighting, because it is no longer manufactured. A use variance is required to permit the drive-in window. All other nonconformities are pre-existing and do not require variances. DENIED DECEMBER 2, 2021 – COURT-ORDERED REMAND.

At the request of the attorney for the applicant, this matter was continued by the Board until the September 6, 2023 meeting of the Board with no further notice required and all timing requirements tolled until September 30, 2023.

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 six (6) townhouse/multifamily dwelling units, 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; 39.38 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) Building coverage for over 30% slope area greater than permitted (0% permitted; 1.7% proposed); (5) Impervious surface (lot) coverage for 0-15% slope area greater than permitted (30% permitted; 31% proposed); (6) Open space for over 30% slope area less than required (100% required; 98% proposed); (7) Ground sign proposed where same is not permitted; and

(8) Ground sign setback from Valley Road less than required (40 ft. required; 17.4 ft. proposed). 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.

Jason Tuvel, Esq., of Prime & Tuvel LLC, with offices at 1 University Plaza Drive, Suite 500, Hackensack, New Jersey 07601, appeared on behalf of the applicant. Present on behalf of the applicant and sworn to give testimony were the following: Joshua Herman, of Stonefield Engineering & Design, LLC, 92 Park Avenue, Rutherford, New Jersey 07070, a traffic engineer; and John McDonough, 101 Gibraltar Drive, Suite 1A, a planner.

The following objectors and interested parties were present and sworn:

Joseph Holzli, 75 Mountainside Terrace; Ines Armesto 43 J Street; Gregory Costanza, 528 Valley Road; Fred Hrinck, 534 Valley Road; Sunil Raval, 514 Valley Road; Vera Lazar, 22 Spencer Ave; Anne Schnackenberg, 280 Washington Street; Amy Zlotkowski, 13 Lotz Hill Rd; Luis Moreno 43 J Street; and Jessica Moreno, 43 J Street.

A hearing regarding this Application was previously commenced before the Board during its March 15, 2023, June 21, 2023, and July 19, 2023 meetings and continued to the August 16, 2023 meeting. Prior to the June 21, 2023 meeting, the Board received of a second set of revised Plans which further modifies the original scope of the Project and the variances requested.

Subsequent to the March 15, 2023 meeting, the Board is in receipt of: Engineering Review No. 4 from its Engineer, Neglia Engineering Associates dated July 18, 2022, revised October 14, 2022, revised March 13, 2023, and last revised June 9, 2023; Planning Review No. 4 from its Planner, Graviano & Gillis Architects & Planners LLC dated June 19, 2023; revised Environmental Impact Statement dated June 16, 2023 from the City of Clifton Environmental Commission; and Plan Review dated June 21, 2023 from Fire Prevention Bureau.

Mr. Tuvel provided a summary of the testimony previously taken and the changes to the scope of the project.

Joshua Herman, of Stonefield Engineering, testified as the applicant's traffic engineer, regarding the negative criteria. Mr. Herman provided testimony regarding trip generation. There will be 2-3 vehicles during peak hours as a result of those 6 units. These are insignificant points of traffic generation. Any trips under 100 would be insignificant. Mr. Herman also stated that the County evaluated the application and commented that the driveway could be wider. Mr. Tuvel stated that, as a county road, the applicant would be bound to comply with the County's comments.

Mr. Herman stated that the application complies with the parking ordinances. The parking requirement is 15 spaces. The development will provide 18 spaces. The application also complies with ADA requirements and EV charging stations as required.

Mr. Herman opined that the site circulation will comply to ensure safety and security. He reviewed the Fire marshall's report, and that the applicant would comply with those comments.

Comr. Eramo asked for clarification on parking. Mr. Herman stated that each unit has a 2 car garage and a driveway which accounts for one space. Visitors would park in the driveway.

Mr. Intindola stated that he would comment, as Mr. Tuvel pointed out, compliance with County requirements is mandatory.

Interested party Joseph Holzli asked what would happen in the event a resident hosted a party. Mr. Tuvel stated that the applicant has complied with the requirement and the RSIS considers visitor parking when setting the requirements.

Interested Party Luis Moreno asked about the size of the driveway. Mr. Herman stated that the driveway could fit 1 car in the driveway. Mr. Moreno stated that it may not be enough based on who lives in the units. Mr. Moreno asked where vehicles will exit. Mr. Herman stated that vehicles will exit out of their driveway and head outward onto valley road.

Comr. Foukas asked about parking along the curbing. Mr. Herman stated there is no parking on Valley Road.

Interested Party Sunil Raval asked what the comments were from the Fire Department. Chrmn Zecchino read the Fire Marshal's report. Mr. Raval asked about rear access to the buildings and whether the amount is adequate for the Fire marshal. Mr. Tuvel stated that the width is fine, but that there should be no obstructions.

Interested Party Ines Armesto asked if the traffic study considered the daycare facility in the neighborhood. Mr. Herman reiterated that there will be a minimal impact of trips during peak hours.

Interested Party Fred Hrinck asked how the 2-3 count was made as 6 units will have multiple people who have to go to work. Mr. Herman stated that the report is based on ITE standards which is used throughout the country. This accounts for staggered schedules as well. Mr. Hrinck asked what are peak hours. Mr. Herman stated that peak AM hours are 6 to 9 am while PM is 4 to 7 pm. Mr. Hrinck asked where cars will be parked on holidays, events, etc. if there is no street parking.

John McDonough offered planning testimony. He stated that he reviewed the plans, reports, and visited the site. Mr. McDonough stated that the application is in substantial conformance with statutory requirements and zoning criteria. The property is located in RA1. The lot is oversized and is over 17 times greater than the minimum lot size. The revised plans compact the development to ensure that it is appropriately positioned within the mountain area and steep slope area. Mr. McDonough stated that the applicant is complying with the ordinance as the development is located within the minimal slope area. Currently there is a detached dwelling on the property. The applicant is seeking minimal relief, and complies with an overwhelming majority of the bulk requirements.

Mr. Tuvel asked Mr. McDonough about lot coverage. Mr. McDonough significantly complies with the ordinance, as well as those requirements for townhouses. Mr. McDonough stated that the applicant is working within the footprint of the current disturbance and will not be disturbing additional land.

Mr. McDonough stated that there are 4 buckets of relief sought. The applicant seeks relief related to the number of stories and height of the building. Visually, the building appears as a 3 story building, but a partial 4th story exists due to the existence of a rooftop den. The area will be set into the slope of the property which overcomes the height. The height of the property will not provide an unfair height advantage, it does not block scenic views, and the property can withstand the additional height. None of the purposes of height control are violated, and no negative shadow effects are created. The height does not create an expansion of the density or create an over intensity of the use.

Mr. Tuvel asked about a mechanical bulkhead. Mr. McDonough stated that mechanical equipment does not have a maximum height requirement, but the variance is required here as there is the den area. The den does not exceed the height that would be created anyway by the mechanical bulkhead.

Mr. McDonough stated that the second area of relief is the front yard and parking in the front. Mr. McDonough stated that parking in the front yard is not inconsistent in the area as there are an abundance of similarly situated properties, and it is a better zoning alternative in this area. This is reconcilable under the c(2) variance requirements. Mr. McDonough addressed slope areas, which are a naturally occurring change and will not be further disturbed. No disturbances are over 2% and some are only 1%. These disturbances are not substantial, which complies with statutory requirements.

Mr. McDonough stated that relief is sought related to signage. The sign will be located in the front of the building. The sign will be closer to the road on the basis of safety, need for cohesion, and the need for clarity.

Mr. McDonough reviewed the positive criteria. There is no conflict with the MLUL and the application enhances the general welfare. Mr. McDonough stated that this application fills the need of middle level housing, and complies with the planning goals set by the City. He stated that it is the responsibility of the community for providing multiple types of housing and this facilitates that goal. Mr. McDonough stated that the applicant provides for an efficient use of land without increasing the development, and visually the application is extremely beneficial to the neighborhood, site, and the community at large. There will be over 100 hardwood plantings with native plants which will line the site. These plantings will also provide screening to adjacent properties. There will be a nice variety of plants throughout the season which will be visually appealing. The application will also further the 2021 master plan as it provides a balance of uses, increasing housing stock, protects the mountain, enhances community appearance, and provides for the best possible development in vacant areas.

Mr. McDonough reviewed the negative criteria. Mr. McDonough stated that there will be no substantially adverse impacts environmentally, visually, traffic wise, and does not impair the purpose of the zone plan.

Mr. McDonough stated that the d(6) variance can be complied with, and the (c) variances will not substantially impair the master plan or community. In Mr. McDonough, the positive criteria outweighs any and all negative impacts.

Vice Chrmn Scorziello asked about the cost of construction. Mr. McDonough stated that shared access points and sharing of access ways and utilities eliminates and reduces costs for additional construction.

Nicholas Graviano, of Graviano & Gillis, the Board's planner, provided a summary of the testimony and that this current plan is a drastic improvement that addresses the concerns of the Board and the public.

Interested Party Joseph Holzli asked how the mountain will be protected by this Project. Mr. McDonough stated that there is no further disturbance of the mountain. Mr. Holzli asked about the number of trees to be removed and the number to be planted. Mr. McDonough summarized his testimony and that of the architect.

Interested Party Ines Armesto asked about the forest area to be impacted and what is meant. Mr. McDonough stated that the application will not touch the forest and only touches area already disturbed. Ms. Armesto asked if there will be anything done to prevent someone touching the forest area in the future. Mr. McDonough stated he cannot address anything beyond the scope of the application. Chrmn Zecchino stated that the only items before the Board are the plans as proposed.

Interested Party Luis Moreno asked what the price will be for these units and how the public will benefit from overly expensive units. Mr. McDonough stated that the City's zoning plan provides for various types of units.

Interested Party Sunil Raval asked if it would be possible to clear fallen trees in order to assist with stormwater management. Mr. Tuvel stated that this question is outside the scope of the planner's testimony. Chrmn Zecchino stated he would defer the question to the Board's professionals. Mr. Raval asked about the location of the sign. Mr. Tuvel stated that the traffic engineer's testimony provides that the sight line is not obstructed and that will be confirmed. Chrmn Zecchino stated this issue was within the County's review. Mr. Raval asked about the sidewalk, and Mr. Tuvel stated that the sidewalk was a requirement of the county and the applicant could only build what was on their property. Mr. Raval asked about the height obstruction. Mr. Tuvel clarified that the 4th story only occupies 1/3 of the footprint of the property, and it would be no different than a 3 story building with a mechanical bulkhead. Currently, no bulkhead is proposed and the height is provided within the ordinance. Mr. McDonough stated he sees no negative impacts based on the height requirements.

Mr. Graviano stated that the applicant did have a pitched roof, no variances would be required and there would be more coverage.

Interested Party Jessica Moreno asked if the applicant could consider working with the town to install affordable housing or consider allowances for first time home buyer. Mr. Tuvel stated that this issue isn't something to be considered at this level while a good consideration. Mr. McDonough stated that this is just a different type of housing. Ms. Moreno asked if the applicant would consider an appearance that was more in line with the properties in the area. Mr. Tuvel stated that architectural consistency is not a requirement but that comments were given by Mr. Graviano which the applicant can consider.

Interested Party Fred Hrinck asked about the style of the building and why its not being considered and how it fits into the neighborhood. Mr. McDonough stated that the design is dictated by market demand. Mr. Hrinck asked about the position of the sign. Mr. McDonough states that the position of the sign is to allow it to be seen.

Interested Party Ann Schnakenberg asked if the natural resource inventory was consulted in the modified plans. Mr. McDonough confirmed that it did. Ms. Schnakenberg asked if any water resources were reviewed and surveyed. Mr. Tuvel stated that the question exceeded the scope of Mr. McDonough's testimony. Ms. Schnakenberg asked if there was anything prohibiting this applicant from adding a specific protection for the sensitive area. Mr. Tuvel stated that it would not be part of this application.

Thereafter, Chrmn Zecchino closed the floor to testimony. He stated that closing statements will be taken from both interested parties and the applicant. Interested parties were provided with 5 minutes each to speak.

Interested Party Luis Moreno stated that he is unhappy with the application and requested that lies stop being stated that the application was for the betterment of Clifton as it is only for the profit of the applicant.

Interested Party Vera Lazar stated that she was a member of the Environmental Commission. She is pleased with the revised plans that only disturb the front area of the property. The Mountain is identified as a registered natural landmark and is a crucial example of an environmentally sensitive area. She is pleased that the application will maintain most of the steep slopes and that there will be new native plantings made as well. Her main concern is the temporary nature of the area of preservation. She believes that some arrangement for permanent protection should be made now. She would support the application if it was accompanied by a permanent protection such as a construction easement.

Interested Party Ines Armesto stated that she disagrees that the application need only meet the requirements as the grievances of those members of the public should be considered. This development will be a detrimental hardship to the neighborhood. This application would create parking issues, traffic, strain on public areas and utilities, and services. She recognizes that the revised application is a reduction in scope, but requests that the Board ensure that the Mountain is protected. She is concerned that there are properties in front of the woods that can be purchased and there will be access to the woods. She wants to protect the woods now by any available means.

Interested Party Amy Zlotkowski stated that the steep slope ordinance is in existence to protect the mountain and asked why it is not being followed. Her parents home has a rear wall which is beyond the size as to what it should have been. She wants to preserve what is left of the town.

Interested Party Joseph Holzli asked why it took the applicant almost a year to come forward with this issue. He requested multiple reports and he did not receive what he was looking for. He provided a picture of a lake, which Chrmn Zecchino marked as exhibit O-1. Exhibit O-1 is a lake that changes size based on when it rains. When it rains, that lake drains into Clifton. The drainage in the winter time creates icy conditions. No one mentioned water coming from that lake or from the top of the mountain. He doesn't understand how the drainage system will be run under the wall. He is unclear about the size of the wall. He stated that the applicant is robbing people of privacy as it is only 20 feet from adjacent properties. He stated that this application is not compliant with steep slope. Mr. Holzli provided a document marked as Exhibit O-2 which contains language which requires review by the City Engineer.

Interested Party Sunil Raval stated that there are unanswered questions. The 4th story is unnecessary and the same purpose will be served with only 3 stories. He appreciates the reduction in scale, but the 4th story is unnecessary. He stated that there is a possibility for a future application which would impact the mountain. He requests that the Board consider how this application will impact adjacent lots and how future applications will be impacted. He stated that there is a double standard as that the applicant was willing to tear down trees but now is not willing to address removal of fallen trees.

Interested Party Ann Schnackenberg stated that she is particularly interested in this application due to her participation with groups and boards in the area. She noted that the stewardship is improved by this application, and that the application is more in line with the requirements. Her concern is access. In the future, there will be opportunities for other applications that will impact this area. This piece of property is special. This area needs to be studied as the City of Clifton has a flooding problem. She understands that the application might comply with the requirements, but the Board needs to consider the impacts of development on these areas. The Board has the opportunity to consider an easement or some other type of protection. She is happy with the revisions to the application, but would object if there no protection for open space.

Interested Party Fred Hrinck stated that his property was subdivided off of the property at issue. Decisions on this application do not only impact this application but impact the Board's legacy. This application will alter the neighborhood. The application will build 4 story townhouses next to 2 story homes. The reason for the 4th story is desirable but not necessary. He stated that there is nothing stopping this space to be converted into an additional living space. There is no transparency with this project and the future of the remaining property on the mountainside. There are no signs in the neighborhood as well. Ordinances are intended to be followed and are intended to protect the community. One or two beautiful homes belong on this property, not townhomes. They will be an eyesore. The Environmental Commission review letter is summarized.

Interested Party Jessica Moreno reiterated the concerns of other individuals. The residents in this area deals with a lot of flooding. Protection of the open space is key for the neighbors. There are other areas that could be bought by the same person and expansions could be initiated.

Mr Graviano stated that a potential condition of approval could be added to provide that no disturbance of the rear wooded areas can be conducted without further approval to address neighbor concerns. He also suggested that a condition be added that the applicant consult with his office to work to mold the façade more into the general aesthetic of the neighborhood.

Mr. Tuvel offered a closing statement. Townhomes are a permitted use in this district, and density is permitted. The key is steep slope disturbance. The current iteration of the proposal is a de minimus disturbance of the steep slope area. The applicant's experts testified that the area of disturbance is less than 2%. The property is in compliance with parking, ADA spaces, and EV spaces. The applicant will comply with all stormwater management requirements, comments by Neglia, and County comments as it is located on a county road. The application complies with lighting requirements. The applicant stays within the existing area of disturbance, and the current plan is a much improved plan. The plan complies with the d(6) height criteria, and the C(2) variance relief is ensured.

Mr. Intindola stated that from an engineering perspective, this is a straightforward project and Neglia is comfortable with the proposed stormwater management. The scale of the project is much more reduced.

Comr. Foukas thanked the public for coming forward and making their concerns heard. He stated that the Board is governed by the standards that are in place, even if we disagree or think that they do not make sense. He shares the concern over protecting the surrounding area. However, the Board is bound by the application at hand and the ordinances in place.

Chrmn Zecchino asked Mr. Tuvel to consider adding a stipulation requiring that any construction in the rear wooded area to require that the applicant return before the Board. Mr. Tuvel stated that the Board could memorialize that as a main consideration and the basis of its decision.

Vice Chrmn Gerard Scorziello thanked the public for its time. He reiterated that any construction in the rear wooded area will need to come before the board.

After a review of the testimony, Comr. George Foukas moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chairman Gerard Scorziello. Voting in favor of the Motion to approve the application were Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, recognizing the reduction in scale and the participation by the public, George Foukas, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, as townhomes are a permitted use and if the applicant consults with the Board engineer to remove fallen trees. By a seven to zero vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

2. **MAIN FOOT AND ANKLE LLC**, 1610 Main St. & 80 W. 2nd St.,
Variances; Use Block 9.07, Lots 25 and 36 – B-C (Lot 26) and M-2 (Lot 25) – The
Variance; Site Plan 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, the Matter was continued until the September 20, 2023 meeting of the Board.

3. **SASAN IMANI**, 32 Lorrie Lane, Block 71.03, Lot 24 – RA3 – The
Variances 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.

A hearing regarding this Application was previously commenced before the Board during its May 19, 2023 meeting. Due to the unavailability of members to approve a vote either to approve or deny the application, the application was continued, for purposes of a vote only, until August 16, 2023.

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. George Foukas. 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 Comrs. Zalman Gurkov, and Vice Chrmn Gerard Scorziello. 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.

NEW HEARINGS

1. **GAMAL AL-AMRANY**, 306 East 4th Street, Block 5.17, Lot 15 – RB1
Variances – Applicant is proposing one family renovation and second floor addition
which requires the following variances; side yard setbacks proposed at 3'
and 9.2' where 6' and 10' is required, combined yard proposed at 12.2'
where 16' is required, front yard proposed at 11.4' where 25' is required,
and lot coverage proposed at 30% where 27% max is permitted.

The applicant, residing at 306 E. 4th Street, Clifton, New Jersey was present and sworn. Also present and sworn on behalf of the applicant were the following: Bahman Izadmehr, 550 Colfax Road, Wayne, NJ 07070 engineer, and Jorge Fernandes, 75 Parkhurst Street, Newark, New Jersey 07114, an architect. There were no objectors.

Mr. Fernandes that the applicant seeks to renovate his home and construct an addition on the second floor. The plans require variances as follows: minimum lot size of 3,750 feet where 5,000 feet is required; minimum lot width of 37.5 ft where 50 ft is required; front yard setback of 11.4 feet where 25 ft is required; side yard set back of 3'-0"-9.2"/12.2' both where 6' each / 16' both is required; lot area / dwelling of 3750 sq ft where 5000 sq ft is required; and lot coverage of 30% where 27% is required.

The minimum lot size, minimum lot width, lot area and dwelling, and lot coverage are preexisting nonconformities and will not be increased. The side yard set back will be increased.

The second floor will have 4 bedrooms and an office, and there will be a western side cantilever, and a rear deck off the first floor to the outside rear yard. Mr. Fernandes stated that impervious coverage has been changed. Currently, it was a lot of pavement and it is being replaced with grass in the front of the property. There was also an enclosed porch which is being removed and encompassed within the house, but also made narrower.

Ms. Bolcato advised that the applicant has provided a revised plan, which was offered and marked as Exhibit A-1.

Chrmn Zecchino asked about the overhang and his concern regarding the bathroom underneath. Mr. Fernandes stated that they would address the issue with the plumbing.

Comr. Molner asked about the rear yard setback from the deck. Mr. Fernandes stated 30.4 feet. Chrmn Zecchino advised that the ordinance on this issue has been changed.

After a review of the testimony, Comr. Michael Molner moved to approve 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 approve the application were Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, 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 approved in the form as more fully appears at the end of these Minutes.

2. **KENNETH KLABOUCH**, 64 Lyall Road, Block 56.02, Lot 23 – RA3
Variances – Applicant is proposing rear dormer addition and new front covered entryway which requires the following variances; side yard setback remaining at 3.5' and 5.2' where minimum of 6' and 10' is permitted, front yard setback proposed at 23.3' where 25' is permitted..

The applicant, residing at 64 Lyall Road, Clifton, New Jersey was present and sworn. There were no objectors. The applicant testified that the property is already nonconforming due to a small lot size. The applicant is looking to extend the existing rear dormer to add an additional bedroom, and add new entrance area and storage closet.

Comr. Molner asked about the front side structure. The applicant stated that there will be a 3 ft overhang with 2 stairs. The sides are not closed but there is a cover. Currently the front of the house is flat.

Comr. Gurkov asked if this is his home and whether a hardship exists. The applicant stated he is a builder, and that the home has no front entry, two small bedrooms, and that the home was previously condemned. He also stated he has no intention to live there.

After a review of the testimony, Comr. George Foukas moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Scott Sochon. Voting in favor of the Motion to approve the application were Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, 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 approved in the form as more fully appears at the end of these Minutes.

3. **ZORAYA DICKSON**, 316 Maplewood Ave, Block 25.06, Lot 12 – RB3
Variances - Applicant is requesting 5' solid with 1' lattice on top totaling 6' where only 4' 50% open is permitted surrounding deck on corner lot located within the site triangle.

The applicant, residing at 316 Maplewood Ave, Clifton, New Jersey was present and sworn. There were no objectors.

The applicant testified that she would like to install a 6 foot fence that is semi private. She stated that this fence was approved for another side of her property. She wants to install a 5' enclosed fence with 1' lattice surrounding the deck. The reason for the request is for safety and security as she is on a corner property, and the height of her deck does not allow for privacy and security given the permitted height of a fence set by the ordinance.

Chrmn Zecchino asked about the line of sight on the fence. Ms. Bolcato stated that to be out of the line of sight, the fence would have to be at the corner of the deck to meet the 20 foot line of sight requirement. Chrmn. Zecchino stated that the concern is the relationship of the fence to the corner of the property. Ms. Bolcato explained that the front corner of the home to the property is approximately 19 feet. Chrmn Zecchino stated that this is why there have been shrubs and not a fence at that position.

The applicant stated that she would like to have use of her side yard property, and that she doesn't see how the position of the fence would impact traffic.

Brian Intindola of Neglia Engineering, the Board's engineer, explained the issue with corner lots and safety. The ordinance requires 20x20 to create a sight triangle, which is standard. Any imposition of the sight triangle would need to be low in order to permit cars to see over or through it.

The applicant stated that she doesn't see that much traffic and doesn't see how she can install a fence in front of the deck as it would not provide the adequate safety she needs. She also noted that a 6 ft fence was approved on the driveway side and that aesthetically different size fence or fences outside of the deck will look odd.

The applicant asked for suggestions on what to do instead. She stated that shrubs are dying and are hard to maintain. Ms. Bolcato asked if the fence can be angled. The applicant stated she would consider an angle to the fence on the corner to maintain the sight triangle. Mr. Intindola stated that to keep a 5' off set on the deck, the corner of the deck would dictate the angle of the fence. Ms. Bolcato stated that if the application is approved, the Zoning office would map out the angle for her or her contractor.

Comr. Sochon also suggested placing a higher fence on the deck.

As a condition of approving the property, the Board instituted the following stipulations:

1. The 20 ft line of sight triangle on the corner will be kept on all sides.

After a review of the testimony, Comr. Scott Sochon moved to approve the application 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. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Chrmn Mark Zecchino. Voting against the Motion to approve was Vice Chrmn Gerard Scorziello. By a six to one vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

4. **OLGA DELGADO**, 38 Lincoln Place, Block 4.10, Lot 58 – RB3 –
Variances Applicant requesting new canopy over front stairs and new enclosure for basement stairs that require the following variances; roof structure over front stoop proposed at 0' where 21' is required and enclosure for basement stairs proposed at 3.5' where 12' is required.

The applicant, residing at 38 Lincoln Place, Clifton, New Jersey was present and sworn. Also present and sworn on behalf of the applicant: Sam Issa, 161 Eagle Ave, New Milford, NJ, contractor. There were no objectors.

The applicant's representative stated that the property has an existing aluminum canopy and that will be removed and replaced, as well as a new enclosure for basement stairs. Chrmn Zecchino asked if there were bilco doors and the representative stated that there are no doors. Chrmn Zecchino expressed concern over direct access to the basement.

Comr Molner asked what is in the basement now, specifically a bathroom. The applicant stated that there is no bathroom. There is mechanical and washer dryer.

Comr. Sochon asked about the height of the basement. The applicant stated about 8 feet.

Comr. Braid asked what the hardship is for adding the back doors. The applicant stated that the canopy will address the continuing water seepage and flooding that has occurred.

After a review of the testimony, Comr. Zalman Gurkov moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. George Foukas. Voting in favor of the Motion to approve the application were Comrs. Maureen O'Connor, Zalman Gurkov, George Foukas. Voting against the application to approve were Scott Sochon, Michael Molner, Vice Chrnm Gerard Scorziello, and Chrnm Mark Zecchino. With a vote of three to four, the motion failed.

Comr. Scott Sochon moved to deny the application 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 Comr. Scott Sochon, Michael Molner, Vice Chrnm Gerard Scorziello, and Chrnm Mark Zecchino. Voting against the application to deny were Comrs. Maureen O'Connor, Zalman Gurkov, George Foukas. By a four to three vote, the motion carried and the application was denied in the form as more fully appears at the end of these Minutes.

5. **WAEL IHMAID**, 119 E 5th St., Block 5.22, Lot 6 – RB1 – Applicant is requesting a variance for an already build expansion, roof & enclosure of a previously existing, non-conforming 9'x24' open deck. Rear yard setback proposed at 23' where 35' is required, side yard setback proposed at 0' where 6' is required, and combined side yard setback proposed at 12.82 where 16' is required.

Dominick Iannarella, Esq., with offices at 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: Wael Ihmaid and Nima Ihmaid, 119 E 5th St, the applicant.

Interested Party William Leger, 131 E. 5th Street, was also present and sworn.

Mr. Ianarella provided an opening statement. The property was purchased with an existing deck and the applicant is proposing to add 8 additional feet to the rear yard. There would be a roof structure but it would be open air. The reason for the construction is religious in nature as Ms. Ihmaid seeks to remove her head covering while on the deck.

The applicant seeks a rear yard setback, sideyard setback, and combined yard setback.

Ms. Ihmaid stated that she cannot go outside without a head covering and she wants to be able to do so in the summertime without needing the headcovering. Ms. Ihmaid also stated that she has a young daughter who will have a similar concern as she ages.

Chrnm Zecchino asked about water runoff on the roof. Mr. Iannarella stated that a gutter can be added. He explained that there is more than a 0' setback, but it is close. Therefore, they used 0' to insure compliance.

Comr. Sochon asked if there was any knowledge regarding whether the deck was built legally. Chrnm Zecchino stated that would be resolved through permits.

Comr Molner asked why 2 feet from the back deck cannot be eliminated to reduce the need for one variance, as this ordinance was recently changed. Mr. Iannarella stated that the additional 2 feet is de minimus. He also stated that the rear yard pool was previously removed. After consulting with the applicant, Mr. Iannarella stated that the applicant would reduce the size of the deck if required.

Interested party William Leger stated he has lived in his home since 1961. He is concerned about the value of his property. He stated that when the structure was built there were no permits posted. He is concerned that the structure that is built will scare away potential buyers.

Comr. Foukas asked how this was built without coming before the Board. Mr. Iannarella stated that the property owners were first time home buyers, didn't understand the requirements, and COVID created various delays and issues, but that the applicants are trying to rectify their mistake.

Vice Chrmn Scorziello asked for further clarification as to how covering assists with the applicant's faith. Mr. Iannarella stated that if the deck has a roof, even without walls and screens, she can remove her headcovering and enjoy her back yard.

Comr. Gurkov stated that he is concerned that this application could create a slippery slope as other community members could cite religion as a basis for variances. Mr. Iannarella stated that the request is a de minimus change from the current ordinances. The neighborhood contains a lot of small side yard setbacks, and a number of properties have structures built close to the setbacks, and this structure would comply with the general neighborhood.

Comr. Molner asked how the roof impairs the setbacks. MS. Bolcato explained that the roof covering becomes part of the structure, and that the roof creates the need for the variance as the roof impinges on the setback.

Mr. Iannarella offered a closing statement and complies with the MLUL as it allows the applicant to enjoy her property while complying with her religion. There would be no substantial detriment to the neighborhood.

As a condition of approving the property, the Board instituted the following stipulations:

1. The size of the deck will be reduced to ensure compliance with the rear yard setback of 25 feet.
2. A gutter will be installed and led away from the neighboring properties.

After a review of the testimony, Comr. Michael Molner moved to approve 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. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zechino. By a seven to zero vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

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| 6.
Variances;
Variance | Use | KANOON RESTAURANT , 349 Hazel Street, Block 15.13, Lot 7 – RB1 – Applicant is proposing a fully enclosed covered patio to be used for year round seating, a covered walkway as well as a 160 sq. ft shipping container which are all an expansion of a non-conforming use and require a use variance. A parking variance as well as any other variances, waivers, exceptions, or other relief that may be necessary are also being requested. |
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At the request of the attorney for the applicant, the Matter was continued until the September 6, 2023 meeting of the Board with no further notice required.

RESOLUTIONS

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

1. Upon motion made by Comr. Scott Sochon, seconded by Comr. Zalman Gurkov, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, and Vice Chrmn Gerard Scorziello, the Resolution DENYING the application of MOHAMMAD JUBRAN for variances to maintain the previously constructed basement bathroom and finish the attic for purposes of storage for premises located at 435 Lakeview Avenue, Block 1.10, Lot 35, was adopted.
2. Upon motion made by Comr. Zalman Gurkov, seconded by Comr. Maureen O'Connor, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Vice Chrmn Gerard Scorziello, the Resolution GRANTING the application of LIHUA ZHOU for a conditional use variance to change the present use from a salsa studio to a health spa for premises located at 605 Van Houten Avenue, Block 43.02, Lot 5, was adopted.
3. Upon motion made by Comr. Zalman Gurkov, seconded by Comr. George Foukas, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, George Foukas, and Vice Chrmn Gerard Scorziello, the Resolution GRANTING the application of 10 JAMES ST LLC for a variance to keep an already installed 6' electric fence in the front yard where 4' 50% open is permitted for premises located at 10 James St., Block 4, Lot 11.
4. Upon motion made by Comr. Scott Sochon, seconded by Comr. Maureen O'Connor, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Vice Chrmn Gerard Scorziello, the Resolution GRANTING the application of ALEX MILICH for variances to construct a 3 story mixed use building containing a bakery, administrative office, and residential apartment for premises located at 243 Parker Avenue, Block 4.16, Lot 34, was adopted.
5. Upon motion made by Comr. Michael Molner, seconded by Comr. Scott Sochon, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Vice Chrmn Gerard Scorziello, the Resolution GRANTING the 90-day extension of time for the Resolution GRANTING the application of AVI & BAYLA GELLER for front yard setback and number of stories variance to expand an existing one-family dwelling at 15 East Parkway, Block 58.05, Lot 8, was adopted.

Thereafter, upon motion made by Comr. Scott Sochon, seconded by Comr. Maureen O'Connor the Minutes of the July 19, 2023 regular meeting were adopted with the unanimous approval of the entire Board.

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,

JACLYN M. MORGESE, ESQ.
COUNSEL SECRETARY

MEETING OF AUGUST 16, 2023.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: 522 VALLEY ESTATES LLC
for premises known as: 522 Valley Road, Block 32.01, Lot 12
be and the same is hereby: GRANTED preliminary and final site plan approval, and variances to construct a new residential complex consisting of 6 townhome/multi-family dwelling units along with related site improvements.**

Testimony concerning the aforesaid application was taken by the Board at its meetings on March 15, 2023, June 21, 2023, July 19, 2023, and August 16, 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 preliminary and final site plan approval to demolish the existing building and construct a new residential complex consisting of six (6) townhouse/multifamily dwelling units, along with related site improvements; and

WHEREAS, the applicant seeks a height variance pursuant to N.J.S.A. 40:55D-70(d); and

WHEREAS, the applicant also seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) as well as design waiver / exception relief; and

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

a. The applicant seeks preliminary and final site plan approval to demolish the existing building and construct a new residential complex consisting of six (6) townhouse/multifamily dwelling units, along with related site improvements;

b. The current construction proposal is a significant reduction in size and scale from the original construction plan proposed by the applicant; and

c. The site is located in the Steep Slope District within the Clifton Zone Plan; and

d. Townhouses are a permitted use within the Steep Slope District; and

e. The site is located on Valley Road, which sits at the foot of Garret Mountain, within the steep slope. Already existing on the property is a single family home.; and

f. The applicant modified their original site plan and reduced the number of townhouses to be constructed in order to ensure that the scope of construction remains entirely within the area of current disturbance. ; and

g. The applicant proposes six 4 story buildings with a maximum building height of 39.38 feet. The fourth story consists of a rooftop den and is offset from the full boundary of the property. The applicant's expert provided testimony that the proposed building height exceeds the City's ordinance by 4 feet 5 inches; and

h. Based on the height of the building, a d(6) height variance is required. To satisfy the proofs for such variance, the applicant offered testimony related to special reasons as well as testimony that the variance can be granted without causing substantial negative detriment to the public good and no substantial impairment to the intent and purpose of the zoning ordinance and master plan; and

i. The applicant's experts provided testimony that the area is particularly suited for the use because it utilizes previously disturbed area, the lot is oversized, and already has a detached dwelling on the property. The applicant's experts also provided testimony that the applicant is maximizing the utility space of each unit while creating no additional disturbance to the land; and

j. The applicant's experts provided testimony that the height of the property height of the property will not provide an unfair height advantage, does not block scenic views of neighboring properties, and that the property will be nestled into the steep slope in order to reduce the impact of the height of the building.; and

k. The applicant provided testimony that the building will have all HVAC units within the interior of the property to eliminate the need for a rooftop bulkhead, and the proposed building is no taller than would be allowed if there was a mechanical bulkhead; and

l. The applicant seeks a variance to permit front yard parking, which is not permitted by the ordinance and requires a c(2) variance pursuant to N.J.S.A. 40:55D-70(c)(2); and

m. To satisfy the proofs for the c(2) variance, the applicant offered testimony that parking in the front yard is not inconsistent in the area as there are an abundance of similarly situated properties, and it is a better zoning alternative in this area. The applicant testified that each unit will have 3 parking sapces, which exceeds the parking requirements by 3 spaces. The application also complies with ADA requirements and EV charging stations as required.

n. The applicant also seeks variance relief related to signage. The applicant is requesting a ground sign on the western side of the driveway and the zone does not permit a ground sign; and

o. The applicant provided testimony that the sign was necessary for safety, clarity, and cohesion; and

p. The applicant also provided testimony regarding a robust landscaping plan, and that the applicant is not increasing the amount of impervious coverage on the property. The application will not impact drainage areas. The applicant's experts provided testimony regarding a permanent swail at the rear of the property, which is designed to take water, divert it around the buildings, and discharge it through the pipe system and away from neighboring properties.; and

q. The applicant's experts also provided testimony that the proposed plan is in compliance with the intent of the Municipal Land Use Law (MLUL) as it enhances the general welfare of the neighborhood;

r. The applicant provided testimony that the applicant provides for an efficient use of land without increasing the development, and visually the application is extremely beneficial to the neighborhood, site, and the community at large; and

s. The applicant provided testimony that there will be no substantially adverse impacts to the environment, to the neighborhood from a visual or traffic perspective, and there is no impairment to the purpose of the zone plan; and

t. The applicant received, reviewed, and intends to comply with the following reports:

i. Engineering Review No. 4 from its Engineer, Neglia Engineering Associates dated July 18, 2022, revised October 14, 2022, revised March 13, 2023, and last revised June 9, 2023; and

ii. Planning Review No. 4 from its Planner, Graviano & Gillis Architects & Planners LLC dated June 19, 2023; and

iii. Plan Review dated June 21, 2023 from Fire Prevention Bureau.

u. The applicant has met the standard for preliminary and final site plan approval as the application conforms to the standards established by ordinance and conditions of preliminary approval have been met; and

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

w. 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; and

WHEREAS, a main consideration for the Board's resolution is the requirement that the applicant will return before the Board should any construction in the rear wooded area be proposed in the future; and

NOW THEREFORE, BE IT RESOLVED that the application for preliminary and final site plan approval and variances to construct a new residential complex consisting of 6 townhome/multi-family dwelling units along with related site improvements for premises located at 522 Valley Road, Block 32.01, Lot 12, 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

Vice Chrmn GERARD SCORZIELLO

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

MEETING OF AUGUST 16, 2023.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: GAMAL AL-AMRANY for premises known as: 306 East 4th Street, Block 5.17, Lot 15 be and the same is hereby: GRANTED variances to complete a one family renovation and second floor addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on August 16, 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 to complete a one family renovation and second floor addition; and

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

- a. The applicant seeks to renovate his home and construct a second floor addition; and
- b. The applicant seeks the following variances:
 1. Minimum lot size of 3,750 sq ft where 5,000 sq ft is required;
 2. Minimum lot width of 37.5 ft where 50 ft is required;
 3. Front yard setback of 11.4 ft where 25 ft is required;
 4. Side yard setback 3'-0" - 9.2" / 12.2' both where 6' each / 16' both is required;
 5. Lot area / dwelling of 3,750 sq ft where 5,000 sq ft is required; and
 6. Lot coverage of 30% where 27% is required ; and
- c. The minimum lot size, minimum lot width, lot area and dwelling, and lot coverage are preexisting nonconformities and will not be increased. The side yard set back will be increased; 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 variances to complete a one family renovation and second floor addition for premises located at 306 East 4th Street, Block 5.17, Lot 15, 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. Maureen O'Connor, Zalman Gurkov, Scott Sochon,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.

MEETING OF AUGUST 16, 2023.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: KENNETH KLABOUCH for premises known as: 64 Lyall Road, Block 56.02, Lot 23 be and the same is hereby: GRANTED front yard and side yard setback variances to construct a rear dormer and new front covered entryway.

Testimony concerning the aforesaid application was taken by the Board at its meeting on August 16, 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 front yard and side yard setback variances to construct a rear dormer and new front covered entryway; and

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

- a. The applicant seeks to extend a rear dormer to add a bedroom and construct a new front covered entryway to add an entranceway and storage closet; and
- b. The applicant seeks the following variances:
 1. Front yard setback of 11.4 ft where 25 ft is required; and
 2. Side yard setback 3'-0"-9.2"/12.2' both where 6' each / 16' both is required;
- c. The applicant testified that the property is already nonconforming due to a small lot size; 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 variances to complete a one family renovation and second floor addition for premises located at 64 Lyall Road, Block 56.02, Lot 23, 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. SCOTT SOCHON

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

MEETING OF AUGUST 16, 2023.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ZORAYA DICKSON for premises known as: 316 Maplewood Ave, Block 25.06, Lot 12 be and the same is hereby: GRANTED a variance for a 5' solid with 1' lattice top fence surrounding deck on corner lot.

Testimony concerning the aforesaid application was taken by the Board at its meeting on August 16, 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. Scott Sochon moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant is seeking a variance for a 5' solid with 1' lattice top fence surrounding deck on corner lot; and

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

a. The applicant seeks to install a semi-private 5' enclosed fence with 1' lattice surrounding her deck; and

b. The applicant's property sits on a corner lot and the position of the fence is located within the sight triangle for traffic purposes; and

c. The applicant testified that she has a 6 foot fence on another portion of her property, and the fence is needed on the front side in order to fully enclose her deck; and

d. The applicant agreed to angle the fence on the corner of her property so as to not impinge on the sight triangle; and

e. The applicant stipulated that:

1. The 20 ft line of sight triangle on the corner will be kept on all sides.

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 a variance for a 5' solid with 1' lattice top fence surrounding deck on corner lot for premises located at 316 Maplewood Ave, Block 25.06, Lot 12, 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. SCOTT SOCHON
Seconded by: Comr. MICHAEL MOLNER
Affirmed by: Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, and Chrnm Mark Zecchino.

MEETING OF AUGUST 16, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **OLGA DELGADO**
for premises known as: **38 Lincoln Place, Block 4.10, Lot 58**
be and the same is hereby: **DENIED** variances to construct a canopy over front stairs and a new enclosure for basement stairs.

Testimony concerning the aforesaid application was taken by the Board at its meeting on August 16, 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. Scott Sochon moved to deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests variances to construct a canopy over front stairs and a new enclosure for basement stairs; and

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

- a. The applicant proposes to construct a new canopy over front stairs and a new enclosure for basement stairs which require variances; and
- b. The applicant's representative provided testimony that the purpose of the construction was to address water seepage and flooding; and
- c. The applicant failed to provide sufficient reassurances to the Board that exterior access to the basement was necessary and not for a standalone basement apartment; and
- d. The applicant has failed to demonstrate sufficient hardship to justify the grant of the variance requested; and
- e. The detriments of the application outweigh the benefits; 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 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 variances to construct a canopy over front stairs and a new enclosure for basement stairs for premises located at 38 Lincoln Place, Block 4.10, Lot 58, is hereby denied.

Resolution moved by: Comr. SCOTT SOCHON
Seconded by: Comr. MICHAEL MOLNER
Affirmed by: Comrs. Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino.

MEETING OF AUGUST 16, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **Wael Ihmaid**
for premises known as: **119 E 5th St., Block 5.22, Lot 6**
be and the same is hereby: **GRANTED rear yard, side yard, and combined side yard setback variances for an already built expansion, roof and enclosure on a rear deck.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on August 16, 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 front yard and side yard setback variances to construct a rear dormer and new front covered entryway; and

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

- a. The applicant seeks variance approval for an already built expansion, roof, and enclosure on a previously existing, non-conforming 9'x24' open deck; and
- b. The applicant seeks the following variances:
 1. Rear yard setback of 23 ft where 35 ft is required;
 2. Side yard setback of 0 ft where 6' is required; and
 3. Combined side yard setback of 12.82 ft where 16 ft is required
- c. The applicant testified that the purpose of the construction was to create a roof and open-wall structure above the existing deck; and
- d. For religious reasons, the applicant's wife must be covered while outdoors and she seeks to uncover and enjoy her rear deck during the hot summer months; and
- e. Construction of this structure will allow the applicant to fully enjoy her property while also complying with her religious requirements; and
- f. The applicant testified that the property owners were first time home buyers, didn't understand the requirements, and COVID created various delays and issues, but that the applicants are trying to rectify their mistake; and
- g. The applicant provided testimony that the neighborhood contains a lot of small side yard setbacks, and a number of properties have structures built close to the setbacks, and this structure would comply with the general neighborhood; and
- h. The applicant stipulated that:
 1. The size of the deck will be reduced to ensure compliance with the rear yard setback of 25 feet.
 2. A gutter will be installed and led away from the neighboring properties.
- i. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- j. 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 complete a one family renovation and second floor addition for premises located at 119 E 5th St., Block 5.22, Lot 6, 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
Vice Chrmn GERARD SCORZIELLO
Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.