

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, October 18, 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 carried for further proceedings by the Board until the November 1, 2023 meeting of the Board with no further notice required and all other requirements tolled until said date.

Interested Party Coral Silfa offered a closing statement. She thanked the applicant for considering the concerns of the neighbors. She stated that she is still against the modifications as the building will not benefit the community. She expressed continued concern regarding garbage around the neighborhood. She explained that an additional business in the area would only increase issues in the neighborhood. She does not want another conflict with another business, and has concerns that the applicant will address issues for a short time but, in her experience, that will discontinue.

Interested Party Jada Lassiter offered a closing statement. She thanked the applicant for hearing out the residents. She explained that the community has never wanted the foot and ankle business on their street, because they are a one way street. She has lived at her home for 25 years, and the prior business owners and operators did not respect residents. She expressed concern about patients parking on her street. She stated that there are plenty of other foot and ankle businesses in the City of Clifton. She explained that there are other impacted neighbors who were unable to attend meetings. She stated that enforcing traffic flow on to Main Street will be difficult.

Comr. Foukas asked about property shielding. Mr. Peterson confirmed there will be trees and landscaping.

Mr. Peterson offered a closing statement. He stated that the applicant has gone a long way to modify the application. He asked that the Board take that into consideration.

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

1. Arborvitae of at least 6 feet in height will be planted to separate and shield the parking lot from neighboring properties; and
2. The applicant will work with Graviano and Gillis regarding revisions on the façade of the building.

After a review of the testimony, Vice Chrmn. Gerard Scorziello moved to approve the application with the noted stipulations 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.

2. **HASAN**
Variances; Use **FERDOUS**
Variance; Site **(CONTINUED**
Plan **TO 10/18/2023)**

4 Gillies St., Block 14.23, Lot 8 – RB2 – The applicant is proposing to relocate front door and steps to add a driveway to the right side of the home which requires the following variance; side yard setback proposed at 0' where 5' is required, driveway proposed in front of the home where not permitted, and proposed length of driveway is approximately 12' where 19' is required.

In accordance with the October 10, 2023 correspondence, the applicant requests the dismissal without prejudice of the pending matter.

After a review of the testimony, Comr. Zalman Gurkov moved to dismiss the application without prejudice and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Scott Sochon. Voting for approval 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 dismissed without prejudice in the form as more fully appears at the end of these Minutes.

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| 3.
Variances; Use
Variance | LOURDES
NUNEZ
Alfred
Acquaviva, Esq.
(CONTINUED
TO 10/18/2023) | 528 Piaget Ave., Block 17.09, Lot 30 – R-A3 – The applicant is seeking approval for a use variance to convert the property from a single-family home to a two-family home. The applicant is seeking two new bulk variances, one for the amount of square feet per dwelling unit. The ordinance requires 5,000 per dwelling unit and the applicant is providing 4,000 per dwelling unit. The applicant is also seeking a variance for one parking space as two parking spaces are required and the applicant is providing one parking space. The applicant will be seeking any and all other reviews and/or other variances or waivers that the Board may deem applicable. |
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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: Matt Gevirtz, 28 Valley Rd Suite 1, Montclair, NJ, the realtor for the applicant; Lourdes Nunez, the applicant; Michael J. Romanik, 291 Crooks Ave, Paterson, NJ 07503, an architect. There were no objectors.

This matter arises from an application which was originally scheduled to be heard by the Board during its October 4, 2023 regular meeting. At the request of the applicant, the matter was continued until October 18, 2023.

Mr. Acquaviva explained that the applicant seeks to convert the property from a one family home into a two family home. He explained that this application is a density variance, and a show of hardship is not necessary. He explained that the burden of proof requires that the property is particularly suited for the use requested.

Mr. Romanik offered architectural testimony. The entrance in the front of the home is for the first floor only. There is another entrance for the second floor. Both apartments will continue to exist, and no additions are being made. He reviewed the plans provided. He explained the applicant lives in one apartment in the first floor, and another apartment is fully furnished but is unoccupied.

Mr. Romanik explained that there is currently a one car garage which serves the first floor. He explained that the site plan proposes two additional parking space, and a back up turnaround area. This will eliminate the need to back out onto Route 46, which is in line with the zone plan and MLUL. The property is a large property – there is 80 ft of width and 100 feet of depth. Each apartment will be 4000 sq ft which is below the requirement of 5000 sq ft per dwelling unit. All other conditions are preexisting and unchanged.

Chrmn Zecchino asked if Mr. Romanik was aware that RA3 are only zoned for single family homes. Mr. Romanik confirmed that he was aware this was the case. He explained that there are other two family homes in the neighborhood based on his personal review of the area. He explained that the property is spacious enough to satisfy the use requested. Chrmn Zecchino explained he wanted the Board to understand that this is an unpermitted use.

Comr. Foukas asked when the home was purchased and how it was purchased. Mr. Acquaviva stated that applicant purchased the home in 2021 and it was set up as a second family home, and the applicant did not install the second floor kitchen.

Chrmn Zecchino explained that the zone is RA3 which is a single family zone. Mr. Acquaviva expressed concern and asked that the Board consider the application from a broader perspective.

Comr. Eramo asked about the kitchen and dining area. Mr. Acquaviva explained that the kitchen and dining area were existing. Comr. Eramo stated that the letter submitted with the application explained that additional work and construction would be conducted in this area, and she asked for clarification. Mr. Acquaviva clarified that no new construction is proposed.

Comr. Gurkov asked Mr. Acquaviva to clarify his statement that the applicant removed the apartment on the first level which moved the property into compliance. Mr. Acquaviva explained that applicant did in fact remove the lower level apartment.

Comr. Foukas asked what purpose, other than monetary gain, is served by this application. Mr. Acquaviva stated that the property is particularly suited for this use as it is

Mr. Gevartz provided testimony related to his involvement as both the listing agent for the property, and the realtor for the applicant as part of the purchase. Mr. Gevartz explained that the seller was the original owner before the applicant. He stated that the applicant only came forward now because previously the home was entirely empty. He explained that the additional kitchen and dining area existed at the time the applicant purchased the property.

Comr. Sochon asked how the property is classified on the deed of the property. Mr. Gevartz stated that the deed states it is listed as a single family home. The home was not marketed as a two family home. He explained that permitting this change would boost the benefits to the owner who is paying a large amount of taxes, increase the value of homes in the area, and address the housing crisis.

Comr. Gurkov explained that the Board cannot rely on monetary gain. Mr. Acquaviva explained that he is relying solely on the fact that this is particularly suited location.

Vice Chrmn Scorziello acknowledged a housing shortage, but asked Mr. Gevirtz if this is the intent of the zoning plan of the City of Clifton. Vice Chrmn Scorziello stated that he did not believe that this is in line with the intent of the master zone plan, which is required for the Board.

Lourdes Nunez, the applicant, offered testimony. She stated she purchased the Property in November 2021. The inside of the property at that time is exactly as it is now, except there was a kitchen in the basement. The inspector advised her that a stove could not be in the basement, which she removed. The second floor is entirely unchanged, and she occupies the first floor. The second floor is unoccupied. She lives in the property with her children.

Mr. Acquaviva offered a closing statement. He offered case law testimony regarding density variance requirements. He explained that a d(5) variance does not require a showing that a property is particularly suited. He explained that the applicant meets the requirement of not causing a substantial detriment to the public good as the property will still be used as a residential property.

Chrmn Zecchino explained that he disagreed and that he believed that this requires a d(1) variance as RA3 only permits a single family home. He asked for the input of Nicholas Graviano, of Graviano & Gillis. Mr. Graviano stated that while he did not complete a formal review of this property, it was his opinion that a d(1) variance was required.

After a review of the testimony, Comr. Michael Molner moved to deny the application on the grounds that the requirements for a prohibited use variance had not been met 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, who stated that he did not oppose two family homes but that this was inconsistent with the zone plan, Scott Sochon, on the grounds that the use was prohibited and inconsistent, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello, recognizing that residential use is permitted but that two family uses are not permitted in the zone, and Chrmn Mark Zecchino, on the grounds that the required standards were not met. 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.

4. **GEELAND,** 811-813 Rt 46, Block 34.03, Lots 75 and 77 – R-A2 –
 Variances; Use **LLC** The applicant proposes to raze the existing commercial
 Variance; Site Michael D. building and construct a 4-story 125,200 sq ft self
 Plan Sullivan, Esq. storage facility, parking, lighting, landscaping,
**(CONTINUED stormwater management, and related site
 TO 12/06/2023) improvements. The applicant seeks relief as follows: 1.**
 A variance pursuant to N.J.S.A. 40:55D-70d(1) to permit a self-storage facility use which is not a permitted use in the R-A2 Zone District contrary to Section 461-13.1.C. 2. A variance pursuant to N.J.S.A. 40:55D-70d(6) to permit building height of 39.8 feet where a maximum of 30 feet is allowed pursuant to Section 461 Attachment 1. 3. A variance pursuant to N.J.S.A. 40:55D-70c to permit a 4-story building where a maximum of 2 stories is allowed pursuant to Section 461 Attachment 1. 4. A variance pursuant to N.J.S.A. 40:55D-70c to permit 14 parking spaces where a minimum of 67 parking spaces are required pursuant to Section 461-60.1.A. 5. A variance pursuant to N.J.S.A. 40:55D-70c to permit 2 loading spaces where a minimum of 13 loading spaces are required pursuant to Section 461-60.1B. 6. A variance pursuant to N.J.S.A. 40:55D-70c to permit a ground sign 2 feet from the right-of-way line where a minimum of 30 feet is required pursuant to Section 461-55.C. The applicant seeks such other approvals, variances, waivers or design exceptions that may be deemed necessary.

At the request of the attorney for the applicant, this matter was carried for further proceedings by the Board until the December 6, 2023 meeting of the Board with no further notice required and all other requirements tolled until said date.

NEW HEARINGS

1. **PATRICK** 30 Weeks Ct., Block 53.02, Lot 43 – RA2 – The
 Variances **MEDLOCK-** applicant is proposing a deck which requires the
TURECK following variances; rear yard setback proposed at 2.4'
 where 25' is required and lot coverage proposed at
 45.4% where 30% is required.

The applicant, residing at 30 Weeks Ct., Clifton, New Jersey was present and sworn. There were no objectors.

The applicant stated he has lived in Clifton for two years. He wants to build a deck on the southern part of the house. The property is a diagonal shape. He stated that there is a small patio area on the western side of the property, but this doesn't get much sun and he wants to be able to take better advantage of the outdoors. He explained that there are many existing trees and other areas along the setback area.

Chrmn Zecchino asked if the lot shape created a hardship. The applicant agreed.

After a review of the testimony, Comr. George Foukas moved to approve the application on the grounds that the hardship is caused by the lot shape 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.

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| 2.
Variances | YITZCHOK
ZANZIPER &
SHOSHANA
WEISS | 10 Lehigh Ave., Block 70.03, Lot 34 – RA3 – The applicant is proposing an addition and alterations to an existing single-family home which requires the following variances; rear yard setback proposed at 29.74' where 35' is required, side yard setback proposed at 5.11' where 6' required, combined yard setback proposed at 9.9' where 16' required, lot coverage proposed at 32.5% where 27% required, 3 stories proposed where 2 stories required and conversion of a portion of the existing attached garage into living space. The garage door will remain and a variance is required for a driveway in front of the home not serving a garage. |
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The applicant, residing at 10 Lehigh Ave., Clifton, New Jersey was present and sworn. Present and sworn on behalf of the applicant was Stephen V. Carrozza, 282 Macopin Rd., Bloomingdale, NJ, an architect. There were no objectors.

Mr. Carrozza stated that the property is a split level, and an expansion is needed to create extra bedrooms, a larger kitchen area, a playroom, and other living space improvements. Construction will be commenced in the rear of the property in an existing sun room, and an adjacent rear area. An addition is also proposed in the front of the dwelling for a foyer and upstairs bathroom. A second story addition is also proposed. A play room is also proposed above the second level, and a variance is requested as this creates a third story.

Mr. Carrozza explained the variances requested: (1) right side yard which is currently a preexisting non-conformity of 4.78' from the property line which will not be expanded; (2) combined side yard variance which is a preexisting non conformity of 9.9' which will not be expanded; (3) rear yard set back which is a preexisting non-conformity of 29.74' which will not be expanded; (4) lot coverage of 32.5% where 27% maximum is permitted; and (5) 3 stories where 2 are permitted.

Mr. Carrozza stated that the plan intends to maximize the use of space as best as possible. He explained that adding a playroom on the third floor assists with not utilizing additional lot space. The additional story is virtually unviewable from the street. He explained that the proposed improvements support the municipal land use law as it is a maximization of existing construction and use of space.

Chrmn Zecchino asked Zoning Officer Bolcato about the third story. He explained that he believes an attic may exist. Ms. Bolcato stated that the attic can exist without being finished, but because it is being finished it requires a variance.

Comr Foukas asked about the use of the garage and considerations of bollards. Mr. Carrozza agreed.

Comr. Sochon asked about whether the garage door would be retained. Mr. Carrozza stated that it would

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

1. The applicant will install a minimum of two bollards in the interior wall of the old garage door.

After a review of the testimony, Comr. George Foukas 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 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. **YITZCHOK & YAFFA WAGNER** 30 Annabelle Ave., Block 71.02, Lot 8– RA3 – Applicant proposing new two-story rear facing addition, a new small front facing two story addition and a new second story over the entire existing main level and garage which requires the following variances; front yard setback proposed at 23.88' where 25' required, side yard setback proposed at 5.47' where 6' required, combined yard setback proposed at 13.53' where 16' required, rear yard setback proposed at 25.2' where 35' required, lot coverage proposed at 32.31% where 27% required, conversion of portion of garage into living space which is eliminating a parking space, and proposing one parking space where two are required under our ordinance.

The applicant, residing at 30 Annabelle Ave., Clifton, New Jersey was present and sworn. Present and sworn on behalf of the applicant was Stephen V. Carrozza, 282 Macopin Rd., Bloomingdale, NJ, an architect.

Interested Party Yakob Morsel, 39 Annabelle Ave, were present and sworn.

Mr. Carrozza stated that the property is a split level dwelling which has preexisting nonconforming conditions. The project variances sought includes front yard setback proposed at 23.88' where 25' required, side yard setback proposed at 5.47' where 6' required, combined yard setback proposed at 13.53' where 16' required, rear yard setback proposed at 25.2' where 35' required, lot coverage proposed at 32.31% where 27% required.

The rear yard addition triggers a rear yard setback variance. A second story addition will be constructed as the property will be modified to ensure a full second level all the way across the footprint of the property. There is a 1.2' encroachment on the front yard setback in order to provide aesthetic benefit in the façade of the building. He believes the encroachment is de minimus .He explained that the majority of the increase in lot coverage is not visible from the street. The project makes the best use of the property and poses no detriment to the neighborhood.

Comr. Molner asked about the modifications to the garage. Mr. Carrozza stated that the garage will be used for storage. Comr. Molner stated that bollards may be necessary .

Interested Party Yakob Morsel stated that he was in favor of the application.

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

1. The applicant will install a minimum of two bollards in the interior wall of the old garage door.

After a review of the testimony, Comr. Zalman Gurkov moved to approve the application with the noted stipulations 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 Chrnm Gerard Scorziello and Chrnm 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.

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| 4.
Variances | KENNETH
DICKERSON
JR.
&
JOSEPHINE
LIZ | 137 Valley Rd., Block 14.20, Lot 10 – B-B – The applicant is proposing an accessory structure (car port) in the front yard of an existing non-conforming 2 family house in a B-B Zone. The following variances are being requested, 49.5" to front lot line where 60' required, 52" to street side where 25' required, 72.5" to the main building where 10' is required, and carport and parking a vehicle within the sight triangle. |
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The applicant, residing at 137 Valley Rd., Clifton, New Jersey was present and sworn. There were no objectors.

The applicant offered the following exhibits:

Exhibit A-1 – Photo of Installed Carport

The applicant stated the car port was installed previously. He built it due to necessity and hardship, as the property does not have a garage. The property is an existing non conformity as the property is a 2 family home in the B-B Zone. The applicant wants protect his vehicles. The structure is bolted to the ground. He does not seek to disrupt the neighborhood with the car port.

Chrmn Zecchino asked about the line of sight on the corner. Ms. Bolcato explained that there is a requirement 20 feet from the corner of the property, and the car port is within the line of sight. The applicant stated that there has not been any issues since it was installed. The applicant stated that the car port is 20 by 20.

Chrmn Zecchino explained that the Board is not concerned that the car port was installed correctly. He explained the concern is the lot coverage expansion, and installation in the sight triangle.

Comr. Gurkov asked about what the hardship is. He explained that the applicant can still park there. The applicant stated that the hardship is the absence of the garage. Covering the area in the winter assists their family to keep them safe, especially in the winter time. The applicant stated that this is a busy street. Comr. Gurkov stated that he is concerned with the line of sight. The applicant stated that there is no fencing in the space as well, which creates the need for privacy which is solved by the car port.

Vice Chrmn Scorzeillo asked how much the car port encroached on the sight triangle. Ms. Bolcato stated she did not have that information available. The applicant stated if he had that information, he would move the car port as necessary.

Chrmn Zecchino expressed sympathy for the applicants, but stated he believed the property is overused as is and the addition of the car port adds to that. Chrmn Zecchino also stated he did not believe he had reviewed a car port on a main street previously.

Vice Chrmn Scorziello stated he believed that the applicant was being truthful and he believed this is a truly a mistake, but the Board needs to remedy it. He explained that the issue is the location of the structure. He stated it either needs to be shortened or somehow moved out of the sight triangle.

Comr. Foukas stated that while he agreedwith Vice Chrmn Scorziello, if the applicants removed the car port, they would still be able to park there, and if they got larger cars it would still disrupt the sight triangle.

Nicholas Graviano, of Graviano & Gillis, asked why the applicant didn't place the car port in the rear parking area. The applicant explained that this area is used as their outdoor space and backyard.

Comr. Sochon asked about the two story area in the rear of the property. The applicant explained it was a storage area, which may have been a garage at one point.

Comr. Molner stated that if the applicant came for a driveway there it would not be permitted.

After a review of the testimony, Comr. Scott Sochon moved to deny the application on the grounds that there is an encroachment in the line of site 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, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was denied in the form as more fully appears at the end of these Minutes.

5.	YITZCHOK	88 Virginia Ave., Block 50.11, Lot 21 – RA2 – The
Variances	BUCHLER	applicant is requesting an addition on the home which will also include a new covered rear patio and requires the following variances; rear yard setback proposed at 32.9' where 35' required, side yard setback proposed at 4.49' where 6' required, lot coverage proposed at 32.4% where 30% is required, and intersecting gables are creating a 3rd story where 2 stories are permitted.

The applicant, residing at 88 Virginia Ave., Clifton, New Jersey was present and sworn.

Interested Party Nechemia Fireman, 80 Virginia Ave, was present and sworn.

The applicant seeks to construction an addition to construct a rear patio and improve living space for his family.

Interested Party Nechemia Fireman expressed support for the application.

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 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.

6. **429 PIAGET** 429-433 Piaget Ave., Block 19.08, Lots 3&4 – B-D –
Use Variance; **LLC** The applicant is requesting a use variance with
Site Plan Glenn Peterson, preliminary and final site plan approval to restore
Esq. existing fire damaged building to keep four existing
commercial units on the first floor and replace 2nd floor
offices with six one-bedroom residential units.
Applicant is also proposing as part of the site plan the
removal of a non-conforming single-family home on an
adjacent lot for the use of additional parking.

In accordance with correspondence dated October 10, 2023 and received from Glenn Peterson, Esq., attorney for the applicant, the matter was continued by the Board until November 1, 2023 with no further notice required and all requirements tolled until said date.

7. **BMJR** 162 Van Riper Ave., Block 7.09, Lot 4 - RB2 – The
Variances; Use **REALTY, LLC** applicant is requesting a use variance to construct a 3-
Variance; Site Dominic story apartment building to include 20 units plus a roof
Plan Iannarella, Esq. top terrace. A parking variance along with any and all
other variances that may be needed is also being
requested.

Dominic Iannarella, Esq., 139 Lakeview Avenue, Clifton, NJ appeared on behalf of the applicant. Also present and sworn were: Ivo Rodriguez, managing member of BMHR Realty LLC, residing at 204 Market Street, Garfield, New Jersey, the applicant; Tomasz Bona, Bonarch Architecture & Design LLC 26 4th Street, Wood Ridge, NJ, an architect; David Fantina, Fantina Engineering, 15 Sunset Drive, Bernardsville, NJ, an engineer; and Michael J. Pessolano, MJP Land Use Planning LLC, 140 Elmwood Ave, Flr 2, Bogota, NJ 07604.

There were no objectors.

The Board is in receipt of: Engineering Review No. 2 from its Engineer, Neglia Engineering Associates, dated October 10, 2023; and Planning Review No. 1 from its Planner, Graviano & Gillis Architects & Planners LLC dated October 12, 2023.

Mr. Iannarella explained that the lot was recently purchased by the applicant and the applicant seeks to improve the property. He explained that this was initially intended to be a 20 unit building. It has been now revised to provide a 14 unit building, which eliminates the need of a parking variance.

Mr. Rodriguez provided operational testimony. He stated that he owns a maintenance company which will maintain the property. He stated that garbage pickup will be done during working hours. He stated that two spaces will be assigned per apartment. The designated parking spots could be used for movers as well. There will be mailboxes for deliveries.

Mr. Bona provided architectural testimony. The building has a garage level and foyer entry. There are two living levels. There is a penthouse that extends above the roofline to access rooftop space. The building height is in line with other properties in the area. The neighboring roof heights range from 30 ft to 36 ft. Many of these heights exceed the proposed building height. The property is situated toward the industrial area as opposed to the residential area to not disturb the neighborhood. This will also minimize traffic. The parking structure height will be approximately 11 ft which provides additional height to account for vehicles under the building. Each of the residential floors will be approximately 9 feet.

Mr. Bona provided testimony regarding the materials to be used on the exterior of the building. He also explained the roof terrace layout. There will be access via stairwell and elevator. The roof terrace will be a portion of the total footprint. The terrace will be surrounded with green shading.

There will be 7 apartments on each floor which vary in size and number of bedrooms. Each apartment will meet ADA requirements and have a laundry facility. The parking level will have a drive aisle of 24 feet, with two parking areas of 20 ft in width each. All parking is set within the building footprint. A recycling room and dumpster will be provided.

Comr. Sochon asked about EV Charging stations. Mr. Bona stated that there will be a few and they will be designated.

Mr. Iannarella asked about the roof. Mr. Bona stated that most roofs in the area are gable style. Mr. Bona also stated that the roof terrace is less than 25% of the total roof. Mr. Bona also stated that traffic is designed to move away from one way Van Riper Ave.

Nicholas Graviano stated that the position of the roof terrace will mitigate any obstruction to residential neighbors.

Mr. Fantina provided engineering testimony Mr Fantina explained that three of the variances requested are existing nonconformities which will not be expanded. This includes lot depth, lot size, and lot width. Also requested are front yard setback variances, side yard setback variances, combined side yard, and maximum building height. He stated that these variances are necessary due to the unique size of the lot.

Mr. Fantina explained that the applicant will be reducing the impervious coverage by planting green space and a green roof. This will assist with runoff. Mr. Fantina also explained that the applicant has been in contact with the DPW to provide runoff through the existing sewer line.

Chrmn Zecchino asked about the comments in the Neglia Engineering Planning report. Mr. Iannarella stated that the applicant is prepared to comply with any and all comments provided therein.

Anthony Kurus, of Neglia Engineering, followed up on his request on a detailed lighting and landscaping plan. Mr. Fantina stated that he will be happy to provide it. Mr. Kurus asked about the outbound turning lanes and whether there is space to increase it. Mr. Fantina stated that he would look at it.

Mr. Pessolano provided planning testimony.

Mr. Pessolano offered the following exhibits:

Exhibit A-1 – Planning Images

Mr. Pessolano provided information related to the variances. He explained that the property is a unique site. This includes a shallow lot depth. He provided testimony regarding the special reasons for the use variance. The property is particularly well suited for this type of use due to its unique size and shape. He explained that the type of use is permitted by the zone plan, but the type of structure is not. However, this type of structure can utilize the unique size and shape of this property better than any other type of structure.

Mr. Pessolano stated that this type of use would benefit the neighboring properties as it would permit residential neighbors to face other residential units, as opposed to an under utilized and underdeveloped lot.

Mr. Pessolano addressed the criteria necessary for a d(1) variance. He stated that the site size and surrounding neighborhood make this building particularly suited for the area. He explained there are other special reasons to support the area. This use advances the MLUL by supporting multiple purposes therein. A compact development of this type provides and advances the goals of the zone plan, the city ordinances, and the MLUL.

Mr. Pessolano also provided testimony regarding density. The key is whether the site can accommodate the proposed use. He explained that density is measured by dwellings per lot area. He stated that many of these issues are caused by the size of the lot. He explained that there are no impacts on any surrounding properties. He explained that the number of units is specifically targeted to reduce the impact to the neighborhood while maximizing the space. He explained that the site is a very specific use and cant believe that the governing body would not have contemplated this type of use and that it serves the governing body's intended purpose. He explained that this is a beneficial use because it advances the MLUL. Mr. Pessolano addressed the building height and explained how the building height is not disruptive to the neighborhood.

Chrmn Zecchino commended the applicant for reducing the number of apartments to both reduce the density and complies with the number of parking spaces required.

Nicholas Graviano stated that this is a zone that only permits single family dwellings, and this is a narrow block. This type of building structure promotes a visually pleasing area. He expressed concern regarding the ground level screening, but otherwise had no other concerns.

Mr. Iannarella offered a closing statement. He explained that any project that would be done on this lot would require variances. He explained that other than a building being there where there was none before, everything will be contained within the site. He explained that applicant has gone out of his way to be a good neighbor.

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

1. The applicant will work with Graviano and Gillis regarding revisions on the street level facade of the building.
2. The applicant will work with Neglia Engineering to address all comments.

After a review of the testimony, Vice Chrnm. Gerard Scorziello moved to approve 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. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrnm Gerard Scorziello and Chrnm 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.

RESOLUTIONS

Chrnm 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. George Foukas, seconded by Vice Chrnm Gerard Scorziello, and affirmed by Comrs. David Braid, Scott Sochon, Michael Molner, George Foukas, Vice Chrnm Gerard Scorziello, and Chrnm Mark Zecchino, the Resolution GRANTING the application of JOSIAH DAVIS for variances to construct two car detached garage for premises located at 150 6th Ave, Block 9.05, Lot 1, was adopted.
2. Upon motion made by Comr. Scott Sochon, seconded by Comr. George Foukas, and affirmed by Comrs. David Braid, Scott Sochon, Michael Molner, George Foukas, and Chrnm Mark Zecchino, the Resolution DENYING the application of SOHEL KHAN for variances to keep partially constructed shed for premises located at 712 Grove St., Block 62.06, Lot 12, was adopted.
3. Upon motion made by Vice Chrnm Gerard Scorziello, seconded by Comr. Scott Sochon, and affirmed by Comrs. David Braid, Scott Sochon, Vice Chrnm Gerard Scorziello and Chrnm Mark Zecchino, the Resolution GRANTING the application of ZAHER ABDALJAWWAD for variances to construct a two story addition to convert existing home into two family house for premises located at 148 (150) W 1st St., Block 16.05, Lot 23, was adopted.

4. Upon motion made by Comr. Michael Molner, seconded by Comr. David Braid, and affirmed by Comrs. David Braid, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOSELINE HELENA for variances to keep already constructed gazebo for premises located at 100 Vreeland Ave., Block 9.17, Lot 28, was adopted.
5. Upon motion made by Comr. George Foukas, seconded by Vice Chrmn Gerard Scorziello, and affirmed by Comrs. David Braid, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of RICHARD VANBLARCOM for variances to build a rear deck for premises located at 165 Union Ave., Block 18.18, Lot 17.
6. Upon motion made by Comr. Scott Sochon, seconded by Comr. Michael Molner, and affirmed by Comrs. David Braid, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of ROSANNA ROSARIO for variances to complete attic dormer for premises located at 13 Hilton St., Block 11.11, Lot 11, was adopted.

Thereafter, upon motion made by Comr. Scott Sochon, seconded by Comr. George Foukas the Minutes of the October 4, 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 OCTOBER 18, 2023.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MAIN FOOT AND ANKLE LLC
for premises known as: 1610 Main St. & 80 W. 2nd St., Block 9.07, Lots 25 and 36
be and the same is hereby: GRANTED site plan approval and variances for a consolidated subdivision containing a 2 story mixed use building for medical offices.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 requests site plan approval and variances for a consolidated subdivision containing a 2 story mixed use building for medical offices; and

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

- a. The subject property is located on two lots and which presently house an existing vacant building and rear parking area; and
- b. The applicant seeks to revive the site by renovating the existing building within the current footprint to provide for medical offices and examination rooms on the first and second floor of the building; and
- c. The applicant revised the proposed plans several times in light of input from the Board and interested parties / neighbors; and
- d. The final site plan resulted in a reduction in the total number of exam rooms, moved the refuse area from its original proposed location, and modified traffic flow to reduce the impact to the neighborhood; and
- e. The applicant also removed a proposed second floor addition and pharmacy from the original proposed plan; and
- f. As a result of the revised plan, the applicant meets and exceeds the parking requirement imposed by ordinance; and
- g. The applicant will provide ADA accessible parking spaces and EV parking spaces; and
- h. The revised plan also provides for adequate property screening with trees and landscaping to reduce intrusion on neighboring residences; and

- i. The applicant provided testimony that the proposed parking lot will be sloped to assist with runoff, and there will be an infiltration basin to support a 100 year storm;
- j. The applicant also provided testimony that lighting will be installed, with all lighting will contain the appropriate shields and be directed away from neighboring residences; and
- k. The applicant testified that refuse pick up will be conducted in accordance with City Ordinance; and
- l. The operating hours will be 9 am to 5 pm six days per week; and
- m. The applicant requests a d(1) variance due to the requirement that two uses are not permitted on a lot within the zone, as well as multiple bulk variances; and
- n. The applicant provided testimony regarding the positive criteria, including special reasons, such that the site is particularly suited for the use; and
- o. The applicant provided testimony that the regarding the negative criteria including proof that the use will not substantially impair the intent and purpose of the zone plan, and its not inconsistent with the purpose of the master plan; and
- p. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- q. 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 site plan approval and variances for a consolidated subdivision containing a 2 story mixed use building for medical offices for premises located at 1610 Main St. & 80 W. 2nd St., Block 9.07, Lots 25 and 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:

Vice Chrmn GERARD SCORZIELLO
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 OCTOBER 18, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **HASAN FERDOUS**
for premises known as: **4 Gillies St., Block 14.23, Lot 8**
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 October 4, 2023 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:

Seconded by:

Affirmed by:

Comr. ZALMAN GURKOV

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 OCTOBER 18, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **LOURDES NUNEZ**
for premises known as: **528 Piaget Ave., Block 17.09, Lot 30**
be and the same is hereby: **DENIED use and bulk variances to convert existing single home into two family home.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 4, 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 seeks variances to keep partially constructed shed; and

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

- a. The applicant seeks to convert the property from a one family home into a two family home; and
- b. The applicant purchased the home in 2021 and, when purchased, the home contained a separate kitchen and dining space in both the first and second floor; and
- c. The applicant purchased the home in the condition it currently is, except for the fact that the applicant removed a stove from the basement; and
- d. The applicant resides in the first floor apartment, and the second floor apartment is currently vacant; and
- e. The property contains a one car garage which services the first floor apartment, and the proposed site plan would add two additional parking spaces as well as a turnaround area, eliminating the need for the residents to back out on to Route 46; and
- f. The property is located in the RA 3 zones which only permits single family homes. This triggers the need for a d(1) use variance as the proposed use is prohibited; and
- g. To receive a d(1) use variance, the applicant was required to satisfy the positive and negative criteria; and
- h. The applicant provided insufficient testimony to demonstrate the positive criteria, as the applicant did not demonstrate that this use would advance the purposes of zoning, as this zone permits single family homes only; and

- i. The applicant also did not provide testimony that the use proposed was inherently beneficial, that the site was particularly suitable, or that the site may not be used for a permitted use; and
- j. The applicant also did not provide adequate testimony regarding a hardship; and
- k. The applicant also did not provide testimony to establish the negative criteria, including that the proposed use variance could be granted without substantial detriment to the public good or that the use would not substantially impair the intent and purpose of the zone plan; and
- l. Therefore, the Board found that the applicant did not provide adequate evidence to satisfy the positive or negative criteria; and
- m. The Board determined that the applicant failed to demonstrate sufficient hardship justifying the variances; and
- n. The Board determined that 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 use and bulk variances to convert existing single home into two family home for premises located at 528 Piaget Ave., Block 17.09, Lot 30, is hereby denied.

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 Chrnm Gerard Scorziello, and Chrnm Mark Zecchino.

MEETING OF OCTOBER 18, 2023.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: PATRICK MEDLOCK-TURECK
for premises known as: 30 Weeks Ct., Block 53.02, Lot 43
be and the same is hereby: GRANTED variances to construct a deck.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 requests variances to construct a deck; and

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

- a. The applicant stated that he seeks to construct a deck on the southern portion of his home; and
- b. The proposed construction requires a rear yard setback variance as the rear yard setback is proposed at 2.4' where 25' is required; and
- c. The proposed construction also requires a lot coverage variance as the lot coverage is proposed at 45.4% where 30% maximum is permitted.; and
- d. The applicant provided testimony that the shape of his lot creates a hardship related to the positioning of the deck; and
- e. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- f. The benefits of the application outweigh the detriments, if any; and

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

WHEREAS, the Board further finds that there has been no testimony presented to show that the 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 construct a deck for premises located at 30 Weeks Ct., Block 53.02, Lot 43, 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. 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 OCTOBER 18, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **YITZCHOK ZANZIPER & SHOSHANA WEISS**
for premises known as: **10 Lehigh Ave., Block 70.03, Lot 34**
be and the same is hereby: **GRANTED** variances to construct an addition and alterations on a single family home for premises.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 requests variances to construct an addition and alterations on a single family home for premises located at 10 Lehigh Ave., Block 70.03, Lot 34; and

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

- a. The applicant owns a split level home and seeks to construct an expansion on the property to add bedrooms, enlarge the kitchen, provide a playroom, and make other living space improvements; and
- b. The proposed construction requires a rear yard setback variance, as the rear yard setback is proposed at 29.74' where 35' is required; and
- c. The proposed construction requires a side yard setback variance, as the side yard setback is proposed at 5.11' where 6' is required; and
- d. The proposed construction requires a combined yard setback variance, as the combined yard setback is proposed at 9.9' where 16' is required; and
- e. The proposed construction requires a lot coverage variance, as the lot coverage is proposed at 32.5% where 27% is required; and
- f. The proposed construction requires a variance for the number of stories, as 3 stories are proposed where 2 are permitted; and
- g. The proposed construction requires a variance for a driveway not servicing a garage, as a portion of the attached garage will be converted into living space; and
- h. The applicant provided testimony that the side yard setback, combined side yard setback, and rear yard setbacks are all preexisting non-conformities which will not be expanded; and

- i. The applicant provided testimony that the expansion is necessary to provide space, comfort, and security to their growing family; and
- j. As a condition of approval, the Board instituted and the applicant agreed to the following stipulations:
 - a. The applicant will install a minimum of two bollards in the interior wall constructed in front of the former garage door; and
- k. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- l. 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 construct an addition and alterations on a single family home for premises for premises located at 10 Lehigh Ave., Block 70.03, Lot 34, 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 OCTOBER 18, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **YITZCHOK & YAFFA WAGNER**
for premises known as: **30 Annabelle Ave., Block 71.02, Lot 8**
be and the same is hereby: **GRANTED** variances to construct a new two story rear facing addition, two story front facing addition and second story over existing main level and garage.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 requests variances to construct a new two story rear facing addition, two story front facing addition and second story over existing main level and garage for premises located at 30 Annabelle Ave., Block 71.02, Lot 8; and

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

- a. The applicant owns a split level home and seeks to construct new two story, rear facing addition and small front facing two story addition, and full second story over the existing main level in order to accommodate the needs of their ; and
- b. The proposed construction requires a front yard setback variance, as the front yard setback is proposed at 23.88' where 25' is required; and
- c. The proposed construction requires a side yard setback variance, as the side yard setback is proposed at 5.47' where 6' is required; and
- d. The proposed construction requires a combined yard setback variance, as the combined yard setback is proposed at 13.53' where 16' is required; and
- e. The proposed construction requires a rear yard setback variance, as the rear yard setback is proposed at 25.2' where 35' is required; and
- f. The proposed construction requires a lot coverage variance, as the lot coverage is proposed at 32.31% where 27% is required; and
- g. The proposed construction requires a variance for a conversion of a portion of the garage into living space, as one parking space is eliminated and two are required; and

- h. The applicant provided testimony that the property possesses a number of preexisting non-conformities which will not be expanded; and
- i. The applicant provided testimony that the expansion is necessary to provide space, comfort, and security to their growing family; and
- j. As a condition of approval, the Board instituted and the applicant agreed to the following stipulations:
 - a. The applicant will install a minimum of two bollards in the interior wall constructed in front of the former garage door; and
- k. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- l. 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 variances to construct a new two story rear facing addition, two story front facing addition and second story over existing main level and garage for premises located at 30 Annabelle Ave., Block 71.02, Lot 8, 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

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 OCTOBER 18, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **KENNETH DICKERSON JR. & JOSEPHINE LIZ**
for premises known as: **137 Valley Rd., Block 14.20, Lot 10**
be and the same is hereby: **DENIED** application for variances to construct an accessory structure in the front yard of an existing, non-conforming 2 family house.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 seeks variances to construct an accessory structure in the front yard of an existing, non-conforming 2 family house; and

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

- a. The applicant purchased the property in 2021, and the property does not have a garage; and
- b. For the purposes of security and protection of their vehicles, the applicant installed a 20' x 20' car port on the rear corner of the property; and
- c. The car port is installed on the portion of the property which the applicant utilizes as a driveway; and
- d. The property is located on a corner, and the relevant ordinance establishes a sight triangle of 20' x 20'; and
- e. The car port is installed within the sight triangle; and
- f. The car port requires variances related to the front lot line, street side line, and distance from the main building; and
- g. The plans provided indicate that a two story building exists in the rear of the property which is utilized for storage, but not as a garage; and
- h. The plans show that there is another parking area on the property, which the applicants utilize as their outdoor space; and

- i. The Board determined that other areas exist on the property for the installation of the car port which would not be within the sight triangle; and
- j. The Board determined that the size of the car port may be reduced to eliminate encroachment on the sight triangle; and
- k. The Board determined that the applicant failed to demonstrate sufficient hardship justifying the variances; and
- l. The Board determined that 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 an accessory structure in the front yard of an existing, non-conforming 2 family house for premises located at 137 Valley Rd., Block 14.20, Lot 10, is hereby denied.

Resolution moved by:
Seconded by:
Affirmed by:

Comr. SCOTT SOCHON
Comr. MICHAEL MOLNER
Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.

MEETING OF OCTOBER 18, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **YITZCHOK BUCHLER**
for premises known as: **88 Virginia Ave., Block 50.11, Lot 21**
be and the same is hereby: **GRANTED** variances to construct an addition and rear covered patio.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 requests variances to construct an addition and rear covered patio for premises located at 88 Virginia Ave., Block 50.11, Lot 21; and

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

- a. The applicant would like to construct an addition on his home and a new, covered rear patio in order to accommodate his family and improve their safety, security, and enjoyment of the home; and
- b. The proposed construction requires a rear yard setback variance, as the rear yard setback is proposed at 32.9' where 35' is required; and
- c. The proposed construction requires a side yard setback variance, as the side yard setback is proposed at 4.49' where 6' is required; and
- d. The proposed construction requires a combined yard setback variance, as the combined yard setback is proposed at 13.53' where 16' is required; and
- e. The proposed construction requires a lot coverage variance, as the lot coverage is proposed at 32.4% where 30% is required; and
- f. The proposed construction requires a variance for a third story where two are permitted, due to intersecting gables on the roof of the home; and
- g. The applicant provided testimony that the expansion is necessary to provide space, comfort, and security to their growing family; and
- h. The applicant has shown sufficient hardship to justify the grant of the variances 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 variances to construct an addition and rear covered patio for premises located at 88 Virginia Ave., Block 50.11, Lot 21, 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

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 OCTOBER 18, 2023.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **BMJR REALTY, LLC**
for premises known as: **162 Van Riper Ave., Block 7.09, Lot 4**
be and the same is hereby: **GRANTED site plan approval, use variance, and bulk variances to construct 3 story apartment building with 14 units and a rooftop terrace.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 18, 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 requests site plan approval, use variance, and bulk variances to construct 3 story apartment building with 14 units and a rooftop terrace; and

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

- a. The applicant purchased the property, which is currently vacant with an asphalt paved lot and perimeter fencing, in 2021; and
- b. The applicant proposes to develop the property by constructing a three story, 14 unit apartment building with parking on the ground floor and two stories of apartments above; and
- c. The proposed ground floor parking garage includes 24 parking spaces (which include 2 ADA spaces) and 4 additional uncovered parking spaces outside the building. Each apartment will have two assigned parking spots. Therefore, the applicant complies with the RSIS parking requirements; and
- d. The two floors of apartment units will contain 14 two bedroom units which range in size from 940 sq ft to 1262 sq ft; and
- e. The applicant will also construct a rooftop terrace with access provided by a main building stairwell and elevator. The roof terrace will be set away from neighboring residences and will be less than 25% of the total roof size ; and
- f. The property is situated in the RB2 zone, which permits garden apartments and townhouses on 60,000 sq ft lots, which require two or more buildings. This deviation triggers the need for a use variance; and

- g. The RB2 district permits 2,904 sqft of lot area per dwelling, and the applicant proposes 1,077 sq ft per dwelling, which triggers the need for a density variance; and
- h. The applicant provided testimony that the lot contains certain existing non conformities which will not be expanded, which include lot depth, lot size, and lot width; and
- i. The applicant requests bulk variances including front yard, side yard, combined side yard and maximum building height variances.
- j. The applicant provided testimony regarding the positive criteria and special reasons, including the fact that the property is particularly suited for the use as the unique size and shape lends itself to a use of this sort; and
- k. The applicant provided testimony regarding the negative criteria including proof that the use is consistent with the zoning laws, as the type of use continues to be residential with one less building, and that the use will not substantially impair the intent and purpose of the zone plan and it is consistent with the purpose of the master plan; and
- l. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- m. 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 site plan approval, use variance, and bulk variances to construct 3 story apartment building with 14 units and a rooftop terrace for premises located at 162 Van Riper Ave., Block 7.09, Lot 4, 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. Maureen O'Connor, Zalman Gurkov, Scott Sochon,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.