

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, November 1, 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, , SCOTT SOCHON, MICHAEL MOLNER, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR. ZALMAN GURKOV.

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. Use Variance;
Variance;
Site Plan
**(CONTINUED TO
11/1/2023)**

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 15, 2023 meeting of the Board with no further notice required and all other requirements tolled until said date.

CONTINUED HEARINGS

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| 1.
Variances; Use
Variance; Site
Plan | GEELAND,
LLC
Michael D.
Sullivan, Esq.
(CONTINUED
TO 12/06/2023) | 811-813 Rt 46, Block 34.03, Lots 75 and 77 – R-A2 –
The applicant proposes to raze the existing commercial building and construct a 4-story 125,200 sq ft self storage facility, parking, lighting, landscaping, stormwater management, and related site 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. |
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This matter was previously continued until the December 6, 2023 meeting of the Board with no further notice required and all other requirements tolled until said date.

2. **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
(CONTINUED commercial units on the first floor and replace 2nd floor
TO 11/01/2023) 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.

Glenn Peterson, Esq., of Peterson & Peterson, 1037 Rt. 46 E, Suite 105, Clifton, New Jersey appeared on behalf of the applicant. Also present and sworn on behalf of the applicant was Mahmoud Najjar, Little Ferry, New Jersey, Managing Member of applicant LLC; Thomas Donohue, Donohue Engineering, 210 Summit Avenue, Montvale, New Jersey, an engineer; William J. Martin, WJM Architect, 25 Boulevard, Westwood, New Jersey, a planner; Michael Capo, of Michael Capo Architect LLC, with offices at 1046 Rt 46 E., Clifton, New Jersey 07013, 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 18, 2023 regular meeting. At the request of the applicant, the matter was continued until the November 1, 2023 meeting of the Board.

The Board is in receipt of: Engineering Review No. 1 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. Peterson provided a brief opening statement. The property currently houses a building which was gutted by an electrical fire. The building previously housed a number of commercial business on the first floor and various professional businesses on the second floor. The applicant is requesting a use variance and preliminary and final site plan approval. The applicant seeks to construct six one bedroom residential units on the second floor and keep four existing commercial units on the first floor. Mr. Najjar confirmed that all statements made by Mr. Peterson were accurate.

Michael Capo, of Michael Capo Architect LLC, provided architectural testimony. In the basement of the property will be storage areas. There will be gas lines in the front of the building. The first floor will retain the retail stores and the floor plan will be the same as previously existed. The size of the floor plan will be the same, but the location of bathrooms may change based on the tenants. As a result of the fire, the second floor collapsed. The roof will be replaced and new load bearing walls will be constructed. The applicant is proposing six one bedroom units which vary in square footage from 695 swft to 815 sq ft.

Mr. Capo provided testimony regarding the exterior façade of the building. The building will be brick and have new windows, but will look similar to its prior iteration.

Comr. Foukas asked about the tenants. Mr. Capo stated that the tenants will not be the same, but it will be retail tenants.

Comr. Molner asked about basement utilities. Mr. Capo testified that the utilities will be in the basement for both the retail and the residential units. He stated that the air conditioning units for the residential units will be placed on the second floor within the utility closets. The units will not be on the roof. He stated that if they are placed on the roof, they will be adequately screened.

Nicholas Graviano, of Graviano and Gillis, asked about the exterior exits and location of the basement stairs. He recommended that, as a condition of approval, storage in the basement be restricted for commercial tenants on the first floor only.

Thomas Donohue of Donohue Engineering provided engineering testimony. He explained that there will need to be demolition of the existing building. The building has a number of preexisting nonconformities with both lots, including front and sideyard setbacks. With the new construction, the parking lot will be restriped and will have 9 x 18 parking spaces. There will be a one way movement out to Barkley Avenue and another one way movement out to Montgomery Avenue. There will be a two way movement entering and exiting the front of the property. There is a need for 20 parking spaces for retail, and 11 spaces for residential use. With a reduction for EV spaces, 27 spaces are required and the applicant is providing 28 spaces.

There will be two landscaped areas in the parking lot, but 358 sq ft is proposed where 560 sq ft is required. The proposed impervious area is 1264 sq ft. Parking is maintained within 5 ft of the property line, which requires a variance.

Mr. Donohue provided testimony regarding the proposed landscaping and lighting plans. A portion of the property will also be regraded and paved to enhance drainage. Mr. Donohue also provided testimony regarding garbage hauling access.

Mr. Donohue offered the following exhibits:

Exhibit A-1 – Driveway Elimination Plan Dated 10/30/2023

Mr. Donohue testified that he reviewed the Board Planner's comments and created Exhibit A-1, Driveway Elimination Plan. The Plan includes the addition of fencing and wheel stops. The curb cut along Montgomery Street will be removed and the sidewalk will be created. This eliminates the need for internal landscaping.

Mr. Graviano complimented Exhibit 1 and the revised plan.

Comr. Sochon asked about the driveway aisle and its size.

Comr. Foukas commented that the Driveway Elimination Plan is an improvement.

Brian Intindola, of Neglia Engineering, the Board's Engineer, stated that this should be submitted to the NJDOT and to anticipate and incorporate their comments and recommendations. He explained the DOT may have issues with Montgomery access being closed.

William J. Martin, of WJM Architect, offered planning testimony. He explained he reviewed all plans, including the supplemental plan; and the Clifton Zoning Plan.

Mr. Martin offered the following exhibits:

Exhibit A-2 – 5 Site Photos taken on Nov. 1

Exhibit A-3 – Photos Above Looking South

Exhibit A-4 – Zoning Map

Mr. Martin stated that the property is located in the B-D zone. There are 3 buildings on the property. 2 of them are residential which will be removed. The building remaining is unoccupied, and will be restored. Mr. Martin offered testimony regarding the neighborhood. The area is primarily businesses. The B-D zone is also surrounded by various residential zones, and those residential areas would benefit from the creation of the commercial stores.

Mr. Martin stated that a d(1) variance is needed as mixed use commercial and residential is not permitted in the zone. This proposed application meets the statutory criteria as it encourages the expansion of off street parking, enhances the beauty and appearance of the area by rehabilitating existing buildings.

Mr. Martin offered testimony on the positive criteria. Specifically, he addressed the site's suitability for the project. The site is particularly suited for both the commercial and residential use because the building is already there. It was previously used as a commercial property and there was a beneficial effect on the community. The previous use of the offices on the second floor were a more intense use than the proposed residential areas. Mr. Martin stated that two buildings are being removed which increases the open space. The proposed plan reduces the intensity of how the property is being used.

Mr. Martin offered testimony on the negative criteria. He testified that the noise generated by the property will be reduced given the less intense use. He also stated that there is no substantial detriment to the public. He also stated that by eliminating the existing residential buildings and replacing them with one bedroom apartments, the impact on the school system is reduced.

Comr. Molner asked about the fire department's input on the plan. Chrnm Zecchino recommended receipt of a fire department report as a stipulation and condition of approval.

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

1. Storage in the basement be restricted for commercial tenants on the first floor only; and
2. Exhibit A-1, which contains the Driveway Elimination Plan, shall be incorporated and adopted as part of the overall site plan; and
3. Signs on the front façade of the building will be consistent; and

4. The applicant will request review from the Clifton Fire Department and shall comply with any recommendations contained therein.

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. Maureen O’Connor. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O’Connor, 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.

NEW HEARINGS

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| <ol style="list-style-type: none"> 1. Site Plan; Use Variance; Variance | <p>MARKGOLD LP
John J. Veteri, Jr., Esq.</p> | <p>1149 Bloomfield Avenue, Block 79.04, Lot 19 – M-1
The applicant seeks a Use Variance, c-variances as noted herein and preliminary and final site plan approval to construct a warehouse, parking, lighting, and related site improvements. he property is located in the M-1 (Industrial) Zone District. The applicant seeks relief as follows: 1. A variance pursuant to N.J.S.A. 40:55D-70d(1) to permit a warehouse to be constructed on the property, which is not a permitted use in the M-1 Zone. 2. A Variance pursuant to N.J.S.A. 40:55D-70c to permit Lot Coverage of 55.63% where 50% is the maximum lot coverage permitted. 3. A variance pursuant to N.J.S.A. 40:55D-70c to permit 11 parking spaces where a minimum of 12 parking spaces are required. The applicant seeks such other approvals, variances, waivers or design exceptions that may be deemed necessary.</p> |
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John J. Veteri, Jr., Esq., 3 University Plaza, Suite 207, Hackensack, New Jersey appeared on behalf of the applicant. Also present and sworn on behalf of the applicant: David E Fantina, PE, 15 Sunset Dr., Bernardsville, New Jersey, an engineer; Marek Dolacki, 81 Division Avenue, Summit, New Jersey, an architect; Alexander Mcclean, 137 Heckel St., Apt. 7, Belleville, New Jersey, a planner. There were no objectors.

This matter arises from an application which was originally scheduled to be heard by the Board during its October 18, 2023 regular meeting. At the request of the applicant, the matter was continued until the November 1, 2023 meeting of the Board.

The Board is in receipt of: Engineering Review No. 1 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 31, 2023.

Mr. Veteri provided a summary of the variances sought: (1) d(1) variance for the warehouse use; (2) Maximum lot coverage of 55.63% where 50% is permitted; and (3) parking spaces proposed where 12 are required.

Mr. Veteri offered the following exhibits:

Exhibit A-1 – Rendering of Proposed Building

Marek Dolacki offered architectural testimony. He referenced Exhibit A-1 which has a rendering of the exterior of the building. The building will be as high as zoning allows to allow for storage. There will be 4 loading bays and parking. There will be a dumpster installed. There will be a steel roof.

David Fantina offered engineering testimony. As an existing condition, the area is almost entirely paved. It is used as a parking area. The applicant is proposing a warehouse building with 3 loading dock fronting the private road and another in the rear. There are parking spaces along the right side of the property. There is space for a dumpster in the front of the property along the private road. It will be adequately screened.

Mr. Fantina reviewed the bulk variances including: (1) Front yard setback of 15 ft is proposed where 20 ft is required; (2) Side yard setback of 15 ft is proposed where 20 ft is required; (3) Maximum lot coverage of 55.63% where 50% is permitted; (4) 11 parking spaces proposed where 12 are required. Mr. Fantina stated that the proposed plan will result in more green space than is currently on the property. Mr. Fantina also addressed the ADA space and Neglia's comments on same. He stated that they are going to move the ADA space with a non-ADA space and create a pathway along the lot toward the entrance.

Mr. Veteri stated that the applicant is willing to consider an alternate plan to ensure parking compliance and eliminate the need for a parking variance, but would require a variance for parking within a front yard set back. Mr. Fantina explained that proposal, which includes again moving the ADA space into the front yard. This would have a much shorter ramp and eliminate close proximity to the truck and loading areas.

Mr. Intindola reviewed the proposed alternative and commented that it is a good solution. He acknowledged that it does trigger the front yard parking variances, but that this front yard fronts a private road.

Mr. Fantina stated that no site signage is proposed. He explained that no user is proposed for the site and no signage is currently proposed. Mr. Graviano recommended that a stipulation be added to require compliance with the ordinance in the future.

Mr. Veteri acknowledged that there is conflict with the number and address of the property, as another property is identified with the same address. He requested the consideration of the Board to approve the address on Isabel Avenue. Chrmn Zecchino stated that the Board does not have the power to change the address. Mr. Intindola stated that the postmaster may be petitioned, and Mayor and Council may offer support.

Comr. Molner asked about entrance and egress. He also asked about truck queuing. Mr. Fantina stated he does not anticipate truck queuing. Mr. Veteri stated that there is access for truck turnarounds.

Comr. Eramo asked about landscaping proposed. Mr. Fantina stated that landscaping will be added pursuant to Neglia's report and commentary.

Alexander McClean provided planning testimony. He explained that this zone is in the M-1 zone, which permits a wide variety of industrial uses. He stated that the property requires a d(1) variance as warehouses are not permitted in the zone. He provided testimony regarding the positive and negative criteria. He stated that the site is particularly suited for the area as the area is an industrial area and there is a need for the warehouse. The warehouse is small and can be accommodated by the size of the site. He explained that it facilitates and enhances the supply chain, and advances the purposes of the MLUL. It is an appropriate use, provides appropriate spaces, and is visually pleasing.

Mr. McClean provided testimony regarding the negative criteria. The site will improve flow and will not increase traffic or noise in the area. The site to the south has two loading bays, and there is minimal traffic along the private road. The proposed use rehabilitates an existing area in compliance with the MLUL. Mr. McClean provided testimony regarding the justification for the requested (c) variances.

Mr. Veteri offered a closing statement and summary. This will allow the site to be used. This proposal creates improvement and enhances the area.

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

1. The plan will adopt the proposed change to move the ADA compliance parking space in order to ensure compliance with the parking requirements; and
2. Documentation regarding the easements of private road shall be provided by the applicant; and
3. Any future tenant of the warehouse shall comply with all ordinances related to signage; and
4. Landscaping will be provided in compliance with the Neglia Engineering Report and Graviano & Gillis Planning Report.

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. David Braid, Alessia Eramo, 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.

RESOLUTIONS

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

1. Upon motion made by Vice Chrmn Gerard Scorziello, seconded by Comr. Scott Sochon, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of MAIN FOOT AND ANKLE LLC for 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, was adopted.
2. Upon motion made by Comr. Zalman Gurkov, seconded by Comr. Scott Sochon, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution DISMISSING WITHOUT PREJUDICE the application of HASAN FERDOUS for variances to relocate the front door and steps and add a driveway for premises located at 4 Gillies St., Block 14.23, Lot 8, was adopted.
3. Upon motion made by Comr. Michael Molner, seconded by Comr. Maureen O'Connor, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DENYING the application of LOURDES NUNEZ 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, was adopted.
4. Upon motion made by Comr. George Foukas, seconded by Comr. Maureen O'Connor, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of PATRICK MEDLOCK-TURECK for variances to construct a deck for premises located at 30 Weeks Ct., Block 53.02, Lot 43, was adopted.
5. Upon motion made by Comr. George Foukas, seconded by Vice Chrmn Gerard Scorziello, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of YITZCHOK ZANZIPER & SHOSHANA WEISS 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.

6. Upon motion made by Comr. Zalman Gurkov, seconded by Comr. Maureen O'Connor, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of YITZCHOK & YAFFA WAGNER for 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, was adopted.
7. Upon motion made by Comr. Scott Sochon, seconded by Comr. Michael Molner, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DENYING the application of KENNETH DICKERSON JR. & JOSEPHINE LIZ 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, was adopted.
8. Upon motion made by Comr. Zalman Gurkov, seconded by Comr. Maureen O'Connor, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of YITZCHOK BUCHLER for variances to construct an addition and rear covered patio for premises located at 88 Virginia Ave., Block 50.11, Lot 21, was adopted.
9. Upon motion made by Vice Chrmn Gerard Scorziello, seconded by Comr. Michael Molner, and affirmed by Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of BMJR REALTY, LLC 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, was adopted.

Thereafter, upon motion made by Comr. Scott Sochon, seconded by Comr. Maureen O'Connor the Minutes of the October 18, 2023 regular meeting were adopted with the unanimous approval of the entire Board.

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

Respectfully submitted,


JACLYN M. MORGESE, ESQ.
COUNSEL SECRETARY

MEETING OF NOVEMBER 1, 2023.

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: 429 PIAGET LLC
for premises known as: 429-433 Piaget Ave., Block 19.08, Lots 3&4
be and the same is hereby: GRANTED preliminary and final site plan approval, use variance, and bulk variances to restore existing fire damaged building with mixed commercial and residential use.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 1, 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 preliminary and final site plan approval, use variance, and bulk variances to restore existing fire damaged building with mixed commercial and residential use; 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 commercial building and two residential buildings; and
- b. The property was damaged by a fire and is otherwise vacant; and
- c. The applicant seeks to revive the site by renovating the existing commercial building which will provide for four commercial spaces on the first floor and six one bedroom apartments on the second floor; and
- d. The proposed site plan creates a less intense use, as the number of bedrooms present in the existing residential buildings are reduced by the proposed number of apartments, and the elimination of office space reduces noise and traffic in the area; and
- e. The applicant meets and exceeds the parking requirements imposed by ordinance, except that the applicant proposes a deminimis reduction in the size of the provided parking spaces; and
- f. The applicant introduced a Driveway Elimination plan which improves internal landscaping and traffic flow; and
- g. The applicant provided testimony that the a portion of the property will be regraded and paved to assist with drainage;

- h. The applicant requests a d(1) variance due to the fact that mixed use commercial and residential is not permitted in the zone; and
- i. The applicant also requests (c) variances related to the location of off-street parking areas near the lot line; the dimensions of off-street parking spaces; and drive aisle widths.
- j. The applicant provided testimony regarding the positive criteria, including special reasons, such that the site is particularly suited for the use, including the fact that the neighboring areas will benefit from the proposed use, an existing nonconformity will be removed, and rehabilitates existing buildings; and
- k. 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 specifically as the proposed use is a less intense use; 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
- n. As a condition of approval, the Board imposed the following stipulations:
 - 1. Storage in the basement be restricted for commercial tenants on the first floor only; and
 - 2. Exhibit A-1, which contains the Driveway Elimination Plan, shall be incorporated and adopted as part of the overall site plan; and
 - 3. Signs on the front façade of the building will be consistent; and
 - 4. The applicant will request review from the Clifton Fire Department and shall comply with any recommendations contained therein.

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 preliminary and final site plan approval, use variance, and bulk variances to restore existing fire damaged building with mixed commercial and residential use for premises located at 429-433 Piaget Ave., Block 19.08, Lots 3&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: Vice Chrmn GERARD SCORZIELLO
Seconded by: Comr. MAUREEN O'CONNOR

Affirmed by: Comrs. Alessia Eramo, Maureen O'Connor, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino.

MEETING OF NOVEMBER 1, 2023.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: **MARKGOLD LP**
for premises known as: **1149 Bloomfield Avenue, Block 79.04, Lot 19**
be and the same is hereby: **GRANTED preliminary and final site plan approval, use variance, and bulk variances to construct a warehouse and related site improvements.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on November 1, 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 preliminary and final site plan approval, use variance, and bulk variances to construct a warehouse and related site improvements; and

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

- a. The subject property is located in the industrial M-1 zone and is currently used as a truck turnaround and parking lot; and
- b. The applicant seeks to construct a warehouse and various other site improvements in the space; and
- c. The warehouse will consist of storage and 4 loading bays, but the anticipated tenant is unknown at this time; and
- d. Parking will be provided and, following a concession by the applicant to move the ADA parking space into the front yard, the applicant is able to satisfy the number of parking spaces required; and
- e. While M-1 is an industrial zone, warehouses are not a permitted use and the applicant requests a d(1) use variance; and
- f. The applicant also requests (c) variances related to maximum lot coverage and parking in the front yard; and

- g. The applicant provided testimony regarding the positive criteria, including special reasons, such that the site is particularly suited for the use, including the fact that the neighboring areas will benefit from the proposed use, and rehabilitates and improves an existing property; and
- h. 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
- i. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- j. The benefits of the application outweigh the detriments, if any; and
- k. As a condition of approval, the Board instituted the following stipulations:
 - 1. The plan will adopt the proposed change to move the ADA compliance parking space in order to ensure compliance with the parking requirements; and
 - 2. Documentation regarding the easements of private road shall be provided by the applicant; and
 - 3. Any future tenant of the warehouse shall comply with all ordinances related to signage; and
 - 4. Landscaping will be provided in compliance with the Neglia Engineering Report and Graviano & Gillis Planning Report.

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 preliminary and final site plan approval, use variance, and bulk variances to construct a warehouse and related site improvements for premises located at 1149 Bloomfield Avenue, Block 79.04, Lot 19, 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. The applicant shall make all commercially reasonable efforts to construct utilities 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.
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Resolution moved by:
Seconded by:
Affirmed by:

Vice Chrmn GERARD SCORZIELLO
Comr. SCOTT SOCHON
Comrs. Alessia Eramo, Maureen O'Connor, Scott Sochon,
Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello
and Chrmn Mark Zecchino.