

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, February 15, 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, 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.

Upon motion made by Comr. Scott Sochon, seconded by Comr. Zalman Gurkov, the Minutes of the February 1, 2023 regular meeting were adopted with the unanimous approval of the entire Board.

### **REMANDED HEARING**

1. **JOHN RADER**, 817-825 Clifton Ave., Block 35.06, Lot 16 – B-C – 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 required variances. DENIED DECEMBER 2, 2022 – COURT-ORDERED REMAND.  
Use Variance;  
Variance;  
Site Plan

This matter was continued without date.

### **CONTINUED HEARINGS**

1. **522 VALLEY ESTATES LLC**, 522 Valley Road, Block 32.01, Lot 12 – Steep Slope District – Preliminary and final major site plan approval, use variance, bulk variance and design waiver/exception relief (the “Application”) by 522 Valley Estates LLC (the “Applicant”) with respect to the property having a street address of 522 Valley Road, Clifton, New Jersey 07013, and being designated as Block 32.01, Lot 12 on the City of Clifton Tax Map (the “Property”). The Property is located in the Steep Slope Zoning District. The Applicant seeks approval to demolish the existing building and raze the Property and construct a new residential complex consisting of 21 townhouse dwelling units within three (3) separate buildings, along with related site improvements, including but not limited to parking, landscaping, and lighting. The Applicant seeks use variance relief pursuant to N.J.S.A. 40:55D-70(d)(6) for building height greater than permitted (35 ft. permitted; 42.75 feet proposed). The Applicant also seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70(c), including: (1) Number of stories greater than permitted (3 stories permitted; 4 stories proposed). The Applicant also seeks any additional deviations, exceptions, design waivers, submission waivers, variances, use variances, conditional use variances, interpretations, continuations of any pre-existing non-conforming conditions, modifications of prior imposed conditions and other approvals reflected on the filed plans  
Use Variance;  
Variances

(as same may be further amended or revised from time to time without further notice) and as may be determined to be necessary during the review and processing of the Application.

At the request of the attorney for the applicant, this matter was continued by the Board until the March 15, 2023 meeting of the Board.

2. **WALBRI PROPERTIES, LLC**, 1 & 9 Walnut Street, Block 37.04, Lots 9 and 13 – M2 – An Application for development has been submitted for property located at 1 & 9 Walnut Street, Clifton, NJ; and also located at Interior Brighton Ave., City of Passaic NJ, Block 3245.03, Lot 10, Zone designation as C.

The purpose of the Application and the Project is for the development of the property & to combine the use of all 3 lots, to demolish the old pavement on the properties, and to construct a new 7,442 square foot 1 story 33.6 foot high commercial flex multi-tenant warehouse building on what is currently identified as Lot 9 and part of Lot 13, with 9 parking spaces, including 1 handicapped space on the remaining part of Lot 13 and on Lot 10.

The application in question requires the following approval/relief from the City of Clifton Zoning Board of Adjustment as per the Clifton Zoning Ordinance:

Variances for: 1] Allowing “d(3)” conditional use variances, pursuant to N.J.S.A. 40:55-D-70.d (3), in that there is a deviation from a specification or standard pursuant to section 54 of P.L. 1975, c. 291 (C. 40:55D-67) pertaining to a conditional use and based upon the requirements set forth in Clifton Code Section 461-36.E. and because the Applicant does not meet the following conditions, variances are required as to the following: (1) The frontage and principal access to such use shall be located on a collector or arterial street (as defined under Chapter 399, Subdivision of Land) not less than 60 feet in width; and (2) The frontage of the lot on which such use is proposed to be located shall not be within 1/2 miles of a public or parochial school or public park or playground which abuts the same street as the proposed truck terminal, transfer station, or warehouse fronts, except State Highway Route No. 3 and Route No. 46, measured along the center line of said street; and (3) The use shall not be located on a lot, any part of which is within 100 feet of a residence district boundary; and (4) The use shall meet the area, height and bulk requirements for industrial plants in an M-2 District and shall meet the off-street parking, loading and unloading, and buffer requirements of this chapter as it pertains to industrial plants in an M-2 District; and allowing any other d(3) conditional use variances that may be required pursuant to N.J.S.A. 40:55D-70.d (3), for any other deviations from a specification or standard pursuant to section 54 of P.L. 1975, c. 291 (C. 40:55D-67) pertaining to the conditional use of the proposed building and use on the subject property; 2] Front Yard- a C Variance from City of Clifton Code Section 461 Attachment 3 in that a front yard setback of 20 feet is required and front yard setback of three (3) feet is proposed; 3] Rear Yard- a C Variance from City of Clifton Code Section 461 Attachment 3 in that a rear yard setback of 40 feet is required and rear yard setback of four (4) feet is proposed; 4] Side Yard- a C Variance from City of Clifton Code Section 461 Attachment 3 in that a side yard setback of 16.8 feet is required and side yard setback of four (4) feet is proposed; 5] From City of Clifton Code Section 461-60.E in that parking shall not be permitted in the required front yard and parking in the required front yard is proposed; 6] From City of Clifton Code Section 461-60.F in that: “off-street parking or loading spaces, parking aisles or maneuvering areas shall not be located within 10 feet of any corner side lot line, within 10 feet of any rear lot line abutting a street or within five feet of any other lot line and the proposed parking lot does not meet ten (10) feet on the rear property line at approximately one (1) feet and in the rear and side parking lot setbacks, and the proposed lot is also less than five (5) feet at the front yard setback requirement; 7] All setback areas shall be adequately landscaped; and 8] preliminary and final site plan approval with associated “c” and “d” variances; 9] Granting all other relief, waivers, variances, and approvals that may be required or may be raised during the course of the hearing.

**The application in question requires the following approval/relief from the City of Passaic Planning Board as per the Passaic Zoning Ordinance:**

Variations for: 1] For site plan approval; 2] The Passaic City portion to be developed as a parking lot with a portion of the Ingress and egress into the property, and 3] Granting all other relief, waivers, variance and approvals that may be required or may be raised during the course of the hearing.

Gary Cohen, Esq., with offices at 180 Main Avenue, Passaic, New Jersey 07055, appeared on behalf of the applicant. Present on behalf of the applicant and sworn to give testimony were the following: George Bean, managing member of Walbri Properties, LLC, 81 Willett Street, Passaic, New Jersey 07055, the applicant; Joseph F. Vince, P.E., LS and PP, Schanwedel Hals & Vince Engineering, with offices at 111 Littleton Road, Suite 200, Parsippany, New Jersey 07054, an engineer; Michael Romanek, AIA and P.A., with offices at 291 Crooks Ave, Paterson, New Jersey 07503, an architect.

Mr. Cohen stated that the applicant is seeking to combine multiple lots, demolish the existing pavement and construct a multi-tenant warehouse. He stated that the applicant previously appeared before the Board and received comments regarding the design and configuration of the building. As a result, the applicant modified the design and size of the building in an attempt to address the Board's comments.

Mr. Vince offered Exhibit A-3 – Colorized Site Plan. Mr. Vince testified that the major change was reconfiguring the building from an “L” shape to a rectangular building, addition of a 15 ft rear buffer, reducing the footprint to 80’ by 82’ and modification of landscaping.

Mr. Vince testified that the new building has a small retaining wall which is about 2 ft high which will assist in buffering headlights from residential properties. He also testified that the new building provided full ADA access, increased green space, and modified the lot coverage percentage.

Brian Intindola of Neglia Engineering, the Board's Engineer, asked about parking spaces. Mr. Vince testified that the required number of spots would be met.

Comr. Foukas asked about the rear buffer, and Mr. Vince testified that the applicant ensured compliance with the Board's suggestions.

Nicholas Graviano of Graviano and Gillis, the Board's planner, asked about rear fencing to assist with buffering. Mr. Vince stated that no rear fence was proposed, but that a retaining wall would be provided.

Mr. Graviano stated that the Board had requested a 10 foot buffer, and that the applicant had provided 15feet.

Vice Chrmn Scorizello asked about the concerns of interested parties who had appeared during the November 2022 hearing.

Mr. Vince also offered planning testimony. He testified that the applicant was seeking a conditional use variance. He acknowledged that there are multiple standards that the applicant and site does not meet, but the standard is whether the site can still accommodate the use and any problems associated with the use.

Mr. Vince stated that the applicant does not satisfy the street width requirement of 60 feet. He testified that 50 feet was provided and that the size of the warehouse lends itself to low volume of traffic by vans and box trucks. He testified that the width of the street will be able to handle the volume and traffic.

Mr. Vince testified that the site did not satisfy the condition of being more than 100 feet from a residential district. He stated that the site abuts a residential district in the rear, and that significant buffering has been added. He testified that there are similar uses in the area, and that the proposed use is low volume in comparison to other permitted uses.

Mr. Vince testified that the site did not satisfy the condition regarding distance from a park or school, but acknowledged that the use was low intensity.

Mr. Vince testified that the requested bulk variances are related to the size of the property in order to combine conforming and non-conforming lots. He testified that this furthers the purposes of the Municipal Land Use Law by eliminating a non-conforming lot.

Mr. Vince testified that the conventional variances requested are consistent with those permitted for other properties in the area, and are appropriate for the size and scale of the property.

Mr. Vince also offered testimony stating that the application advances the purposes of the Municipal Land Use Law as the property is currently vacant and promotes visual improvement of the property.

Mr. Vince testified that there was no substantial detriment to the Master Plan as the property would no longer be vacant, and that there was no substantial detriment to the public.

Chrmn Zecchino asked Mr. Vince if he reviewed the Graviano report. Mr. Vince testified that he had and addressed the comments regarding signage, but acknowledged that all comments would be addressed and complied with.

Mr. Graviano stated he agreed with Mr. Vince's testimony.

Mr. Cohen addressed the merger of the lots. He acknowledged one lot is located in Passaic, which could not be merged with the Clifton lots. He inquired as to how the lots should be merged and expressed the applicant's willingness to merge and re-identify the Clifton lots.

Mr. Graviano agreed that the Clifton lots should be merged. Mr. Cohen agreed.

Mr. Romaneck testified to the site's size, flexibility of tenants, and the reduction in the building's square footage. Mr. Romaneck testified that the applicant's main goal in revision was the addition of a rear yard buffer. He testified that the property would not consist of a basement and that parking is compliant.

Mr. Graviano asked about color variation on stucco, and Mr. Romaneck acknowledged.

Mr. Cohen offered a closing statement that this application has been in the works for years, which includes consultation with the City and Planning Board. He explained that multiple considerations went into how the building would be constructed, its size, and separation from residential area. He stressed that the applicant took the Board's comments to heart and sought to improve an ugly, vacant lot.

As part of application, the applicant stipulated that he would follow the Graviano report regarding the refuse area, building façade, addition of landscaping including 8 foot arborvitaes, and that the planned use is for storage.

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

After a review of the testimony, Comr. George Foukas moved to grant the application, with the noted stipulations and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Michael Molner. 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 granted in the form as more fully appears at the end of these Minutes.

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

3. Variances;  
Use Variance

**EMB 561 LLC**, 561 Van Houten Ave., Block 43.04, Lot 8 – BC – Preliminary and Final site plan approval; use variance approval; bulk variances from Section 461-13 for pre-existing non-conformities consisting of minimum front yard and minimum side yard/each, which none of the pre-existing non-conformities are being increased or changed; and any other variance, waiver, or other relief, if necessary, from the requirements of the Clifton Zoning code to permit the Applicant to convert the existing mixed use building into a multi-family apartment dwelling consisting of 2 one-bedroom apartments on the first floor and 4 two-bedroom apartments on the second floor.

John A. Conte, Jr., Esq., of Meyerson, Fox, Mancinelli & Conte, with offices at 1 Paragon Drive, Suite 240, Montvale, New Jersey 07645, appeared on behalf of the applicant. Present on behalf of the applicant and sworn to give testimony were the following: Edmundo Lopez, PC, with offices at 138 Bridge Avenue, Red Bank, New Jersey 07701, an architect; and Bruce D. Rigg, PE and LS, with offices at 1000 Maple Avenue, Glen Rock, New Jersey 07452, an engineer.

Mr. Conte stated that the applicant is an LLC owned by the daughter of the owner of the former Milano's restaurant. He explained that the applicant seeks to convert the existing building into multiple apartments. The first floor will contain 2 one bedroom appointments, while the second floor will contain 4 two bedroom apartments.

Mr. Conte stated that the application would create substantial improvements to the site as the Van Houten Avenue entrance will be closed to improve traffic. He also addressed parking spaces, impervious coverage, and improvements to runoff and retainage.

Mr. Rigg testified that the property previously housed a restaurant on the first floor and apartments on the second floor. He testified regarding additions to the existing structure and the inclusion of parking below the apartments. Mr. Rigg testified that the front apartment will be fully ADA compliant with a ramp.

Mr. Rigg testified that 12 parking lots would be provided and would comply with the requirement. He testified that he was unsure regarding the requirement of an EV spot, but that if such space was necessary, it could be added on the side of the building if the AC units were moved.

Mr. Conte stated that the applicant was willing to stipulate to the addition of the EV space as Mr. Rigg testified.

Mr. Rigg testified that the Van Houten entrance would be closed and that all entrance and egress would be on Dick street.

Mr. Rigg testified that a retention system would be added to the rear of the property to reduce runoff.

Mr. Intindola acknowledged that the improvements proposed by the applicant are better than the current systems in place and are above and beyond what is required.

Mr. Rigg testified regarding the refuse area, the location of airconditioning units, and driveway access.

Following questions from Mr. Conte, Mr. Rigg testified that traffic would include only standard delivery trucks (i.e., Amazon) and move in / out, and that the current streets could handle such flow.

Mr. Rigg also testified that there would be no issue with fire apparatus accessing the building.

He further testified regarding the refuse area existing away from all parking to permit garbage trucks to back right up to the area.

Mr. Conte stated that the applicant was willing accept comments regarding the type of fencing to be provided to ensure compliance with the general neighborhood.

Mr. Rigg testified that the applicant sought variances regarding set backs and lot coverage, as well as parking within proximity to right of ways.

Mr. Rigg testified that the applicant would not add any exterior lighting in addition to an existing light pole at the property line, and that the location of the pole was the subject of continued discussion with Neglia Engineering.

Mr. Intindola asked if the light pole could be removed and that all exterior lighting could be mounted. Mr. Rigg addressed that there should not be an issue to move if necessary, but acknowledged safety concern.

Mr. Lopez testified regarding the building's interior design, the ADA compliance of the first floor apartment. He testified that the applicant would retain and improve the interior area of the existing apartments and add an expanded living area on the second floor for 2 new apartments.

Mr. Lopez offered the following exhibits:

Exhibit A-1 – Drawing of the proposed building from Van Houten Avenue

Exhibit A-2 – Drawing of the proposed building from Dick street

Mr. Lopez addressed exterior fencing which will be 6 feet on all sides, except for the front yard which will be 4 foot.

Mr. Lopez testified that the applicant proposed to add trees on the Dick Street side of the property. He testified that there was no reason to upgrade the existing sidewalk on Dick Street.

Comr. Molner asked about the refuse area and whether it would be a solid wall around the area. Mr. Conte testified that the applicant was willing to stipulate to a solid wall around the area.

Mr. Graviano made suggestions regarding the second floor cantilever, arch windows, and consistent design scheme.

Mr. Graviano also stated that the applicant's commitment to close the Van Houten entrance would address traffic concerns.

Mr. Conte stated that the applicant will seek to revise the plans and provide further testimony at another date. Included within the noted revisions are the façade design and cantilever, removing of the utility pole, block wall in the refuse area, addition of the EV parking space, and fencing along Van Houten Avenue.

After a review of the testimony, the parties agreed that a revised Site Plan was necessary for submission to the Board. By mutual agreement, the parties continued this hearing until the March 1, 2023 meeting of the Board.

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

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| 4.<br>Variances;<br>Use Variance | <b>833 CLIFTON AVE PARTNERS, LLC</b> , 833 Clifton Avenue, Block 35.07, Lot 1 - BC– Preliminary and final site plan approval, use variance, bulk variances and exterior LED lighting. The applicant seeks approval to construct a 3-story residential apartment building containing 26 one-bedroom units. Any and all additional variances that may be required. |
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At the request of the attorney for the applicant, this matter was continued by the Board until the March 1, 2023 meeting of the Board.

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

At the request of the attorney for the applicant, this matter was continued by the Board until the March 15, 2023 meeting of the Board.

### NEW HEARINGS

1. **MAUREEN HUBY**, 8 Sargeant Ave., Block 36.05, Lot 17 – RB1 – The applicant is proposing a second-floor addition which requires the following variances, front yard setback proposed at 20.35' where 25' is required, rear yard setback proposed at 29.65' where 35' is required, side yard setback proposed at 4.54' and 12.46' where 6' and 16' is required.

The applicant, residing at 8 Sargent Avenue, Clifton, New Jersey was present and sworn.

There were no objectors.

The applicant testified that she was seeking to fully renovate her home and add an addition on the second floor. The addition would be constructed within the existing foundation. The applicant acknowledged that there were existing non-conformities, and that her application did not seek to add to such non-conformities.

After a review of the testimony, Comr. George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. 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 granted in the form as more fully appears at the end of these Minutes.

2. **CARLOS SOLER**, 243 Ackerman Avenue, Block 8.18, Lot 1 – RB3 – The applicant is requesting a variance for a section of 5' solid fencing on the Milosh Street side of the home from the back of the house to the garage where 4' 50% open fencing is required.

The applicant, residing at 243 Ackerman Avenue, Clifton, New Jersey was present and sworn.

There were no objectors.

The applicant testified that the purpose of the solid fence was to ensure the safety of his family due to the business of the surrounding streets. He testified that he has had individuals enter his back yard previously. He acknowledged that the fence is already constructed.

After a review of the testimony, Vice Chrmn Scorziello moved to grant the application, 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 granted in the form as more fully appears at the end of these Minutes.

3. **FRANK JEFFREY HAHOFER**, 68 Avondale Avenue, Block 46.01, Lot 45 – RA2 – The applicant is requesting to expand the driveway and curb cut on the right-hand side all the way to the property line which requires the following variance; 0' setback proposed where 5' is required.

The applicant, residing at 68 Avondale Avenue, Clifton, New Jersey was present and sworn. Additionally present was Adrienne Hahofer, also residing at 68 Avondale Avenue.

There were no objectors.

The applicant testified that they were seeking to expand a driveway and widen a curb cut. Such modifications would abut the property line.

Comr. Molner inquired about the tree on the property, and the applicant acknowledged that the tree would be moved.

After a review of the testimony, Comr. Michael Molner moved to grant the application, and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Gerard Scorziello. Voting 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 granted in the form as more fully appears at the end of these Minutes.

4. **NICHOLAS BUSH**, 55 Maple Place, Block 11.09, Lot 6 – RA3 –The applicant is requesting to replace an existing 1 car garage with a 2-car garage which requires the following variances, maximum accessory structure permitted is 300 sq. ft where 576 sq. ft is proposed, garages must be between 10' and 20' from the house where 37'7" from house is proposed and lot coverage proposed at 29.31% where 27% is permitted.

The applicant, residing at 55 Maple Place, Clifton, New Jersey was present and sworn.

There were no objectors.

The applicant testified that he is looking to replace an 80 year old one car garage with a 2 car garage for additional storage and to permit his wife's car access.

Chrmn Zecchino asked about the type of garages in the neighborhood. The applicant acknowledged that other neighbors have 2 car garages.

Comr. Gurkov asked if electricity and/or plumbing would be installed. The applicant testified that he would add electricity only.

After a review of the testimony, Comr. Michael Molner moved to grant the application, and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Scorziello. 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 granted in the form as more fully appears at the end of these Minutes.



5. **KEN LOWY**, 60 Lehigh Avenue, Block 70.03, Lot 54 – RA3 – The applicant is expanding previously approved side yard setbacks 4.5' & 5.5' with an 18" cantilever and intersecting gable roof on rear of house where 6' combined 16' is required, previously approved lot coverage for 28.74% and proposed is now 29.94%, previously approved front yard setback of 23.8' is still required.

The applicant, residing at 60 Lehigh Avenue, Clifton, New Jersey was present and sworn.

There were no objectors.

The applicant testified that he was before the Board previously regarding certain variances. During the process of construction, the applicant stated that certain items on the plans previously approved would be modified. Specifically, the applicant seeks to add an 18 inch cantilever on the back of the house and a gable in the attic for storage.

After a review of the testimony, Comr. Scott Sochon moved to grant the application, and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Scorziello. 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 granted in the form as more fully appears at the end of these Minutes.

### RESOLUTIONS

1. GRANTED the application of WALBRI PROPERTIES, LLC for the development of the property and to combine the use of lots located in Clifton, to demolish the old pavement on the properties, and to construct a new 6,850 square foot 1 story commercial flex multi-tenant warehouse building on what is currently identified as Lot 9 and part of Lot 13, with 9 parking spaces, including 1 handicapped space on the remaining part of Lot 13 and on Lot 10, on the properties and to construct a new one story building for premises at 1 & 9 Walnut Street, Block 37.04, Lots 9 and 13.

2. GRANTED the application of MAUREEN HUBY for front, rear, and side yard setback variances to construct a second-floor addition section for premises located at 8 Sargeant Ave., Block 36.05, Lot 17.

3. GRANTED the application of CARLOS SOLER for a variance to construct a section of 5' solid fencing on the Milosh Street side of the home from the back of the house to the garage where 4' 50% open fencing is required for premises located at 243 Ackerman Avenue, Block 8.18, Lot 1.

4. GRANTED the application of FRANK JEFFREY HAHOFER for variances to expand the driveway and curb cut on the right-hand side all the way to the property line for premises located at 68 Avondale Avenue, Block 46.01, Lot 45.

5. GRANTED the application of NICHOLAS BUSH for variances to replace an existing 1 car garage with a 2 car garage premises located at 55 Maple Place, Block 11.09, Lot 6.

6. GRANTED the application of KEN LOWY for variances expanding previously approved side yard setbacks to permit an 18" cantilever and intersecting gable roof on rear of house for premises located at 60 Lehigh Avenue, Block 70.03, Lot 54

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 FEBRUARY 15, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: WALBRI PROPERTIES, LLC  
for premises known as: 1 & 9 Walnut Street, Block 37.04, Lots 9 and 13  
be and the same is hereby: GRANTED conditional use variances, site plan approval, and variances to permit development of the property to construct a commercial flex multi-tenant warehouse.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 15, 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 conditional use variances, site plan approval, and variances to permit development of the property to construct a commercial flex multi-tenant warehouse; and

WHEREAS, the applicant seeks to combine multiple lots in order to construct the building; and

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

- a. The applicant proposes to construct a rectangular shaped building for commercial tenants; and
- b. The lot upon which such building would be constructed is currently vacant; and
- c. The applicant previously appeared before the Board and, using the Board's comments, reduced the size and square footage of the building; added a rear buffer between the property and the abutting residential area; improved landscaping; and
- d. The applicant seeks to make productive use of this property; and
- e. The applicant, through the testimony of his experts, has addressed the required positive criteria to establish that:
  1. The application will further the intent and goals of the Master Plan;
  2. The proposed use is appropriate with other uses in the area;
  3. The merger of the lots will eliminate a non-conforming use;
- f. The applicant, through testimony of his experts, has addressed the required negative criteria to establish that:
  1. There will be no substantial increase of any noise to neighboring residents as the buffer is added;
  2. There is no substantial detriment to the public good or the master plan; and
- g. The applicant has stipulated that th applicant will comply with the planner's report regarding the refuse area façade, the addition of 8 foot arborvitaes, and that the use of the property will be strictly for storage; 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 the application for site plan approval, bulk and conditional use variances to permit construction of a multi-tenant warehouse facility at 1 & 9 Walnut Street, Block 37.04, Lots 9 and 13 is hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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

15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.

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

17. All utilities to be constructed underground.

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

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

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

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

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

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

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

**Resolution moved by: Comr. GEORGE FOUKAS**  
**Seconded by: Comr. MICHAEL MOLNER**  
**Affirmed by: Comr. Maureen O'Connor, Zalman Gurkov, Scott Sochon,**  
**Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark**  
**Zecchino.**

**MEETING OF FEBRUARY 15, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MAUREEN HUBY for premises known as: 8 Sargent Avenue, Block 36.05, Lot 17 be and the same is hereby: GRANTED a request for front yard, rear yard, and side yard set back variances to construct a second floor addition.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 15, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant is proposing to construct a second floor addition house which requires front yard, rear yard, and side yard set back variances for premises located at 8 Sargent Avenue, Block 36.05, Lot 17; and

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

- a. The applicant proposes to construct a second floor addition house Which requires front yard, rear yard, and side yard set back variances; and
- b. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- c. 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 to construct a second floor addition house which requires front yard, rear yard, and side yard set back variances at 8 Sargent Avenue, Block 36.05, Lot 17, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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

15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.

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

17. All utilities to be constructed underground.

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

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

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

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

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

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

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

**Resolution moved by: Comr. GEORGE FOUKAS**  
**Seconded by: Comr SCOTT SOCHON**  
**Affirmed by: Comrs Maureen O'Connor, Zalman Gurkov, Scott Sochon,**  
**Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark**  
**Zecchino.**

**MEETING OF FEBRUARY 15, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CARLOS SOLER for premises known as: 243 Ackerman Avenue, Block 8.18, Lot 1 be and the same is hereby: GRANTED a variance to construct a solid fence where open fencing is required.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 15, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Vice Chrmn Gerard Scorziello moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant is requesting a variance for a section of 5' solid fencing on the Milosh Street side of the home from the back of the house to the garage where 4' 50% open fencing is required for premises located at 243 Ackerman Avenue, Block 8.18, Lot 1; and

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

- a. the applicant is requesting a variance for a section of 5' solid fencing on the Milosh Street side of the home from the back of the house to the garage where 4' 50% open fencing is required; and
- b. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- c. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a variance for a section of 5' solid fencing on the Milosh Street side of the home from the back of the house to the garage where 4' 50% open fencing is required for premises located at 243 Ackerman Avenue, Block 8.18, Lot 1, 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. SCOTT SOCHON**  
**Affirmed by: Comrs. Maureen O'Connor, Zalman Gurkov, Scott Sochon,**  
**Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark**  
**Zecchino.**



**MEETING OF FEBRUARY 15, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: FRANK JEFFREY HAHOFER for premises known as: 68 Avondale Avenue, Block 46.01, Lot 45 be and the same is hereby: GRANTED a setback variance to expand the driveway and curb cut on the right-hand side all the way to the property line.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 15, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant is requesting a setback variance to expand the driveway and curb cut on the right-hand side all the way to the property line for premises located at 68 Avondale Avenue, Block 46.01, Lot 45; and

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

- a. the applicant is a setback variance to expand the driveway and curb cut on the right-hand side all the way to the property line; and
- b. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- c. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a setback variance to expand the driveway and curb cut on the right-hand side all the way to the property line for premises located at 68 Avondale Avenue, Block 46.01, Lot 45, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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

15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.

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

17. All utilities to be constructed underground.

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

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

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

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

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

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

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

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

**MEETING OF FEBRUARY 15, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: NICHOLAS BUSH for premises known as: 55 Maple Place, Block 11.09, Lot 6 be and the same is hereby: GRANTED variances to replace an existing 1 car garage with a 2-car garage which requires the following variances.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 15, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant is requesting to replace an existing 1 car garage with a 2-car garage for premises located at 55 Maple Place, Block 11.09, Lot 6; and

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

a. the applicant is requesting to replace an existing 1 car garage with a 2-car garage which requires the following variances, maximum accessory structure permitted is 300 sq. ft where 576 sq. ft is proposed, garages must be between 10' and 20' from the house where 37'7" from house is proposed and lot coverage proposed at 29.31% where 27% is permitted for premises located at 55 Maple Place, Block 11.09, Lot 6; and

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

c. 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 following variances, maximum accessory structure permitted is 300 sq. ft where 576 sq. ft is proposed, garages must be between 10' and 20' from the house where 37'7" from house is proposed and lot coverage proposed at 29.31% where 27% is permitted for premises located at 55 Maple Place, Block 11.09, Lot 6, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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

14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.

15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.

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

17. All utilities to be constructed underground.

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

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

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

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

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

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

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

**Resolution moved by:**

**Comr. MICHAEL MOLNER**

**Seconded by:**

**Vice Chrmn GERARD SCORZIELLO**

**Affirmed by:**

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

**MEETING OF FEBRUARY 15, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: KEN LOWY for premises known as: 60 Lehigh Avenue, Block 70.03, Lot 54 be and the same is hereby: GRANTED a modification to a previously approved side yard setback variance, lot coverage variance, and roof height variance.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on February 15, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant is expanding previously approved side yard setbacks 4.5' & 5.5' with an 18" cantilever and intersecting gable roof on rear of house where 6' combined 16' is required, previously approved lot coverage for 28.74% and proposed is now 29.94%, previously approved front yard setback of 23.8' is still required for premises located at 60 Lehigh Avenue, Block 70.03, Lot 54; and

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

- a. the applicant is amending a prior application for variances; and
- b. Pursuant to the amendments, the applicant is expanding previously approved side yard setbacks 4.5' & 5.5' with an 18" cantilever and intersecting gable roof on rear of house where 6' combined 16' is required, previously approved lot coverage for 28.74% and proposed is now 29.94%, previously approved front yard setback of 23.8' is still required; and
- b. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- c. 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 to amend the variances previously approved for premises located at 60 Lehigh Avenue, Block 70.03, Lot 54, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Graviano & Gillis Architects & Planners, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.

12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.
16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for the same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant, or applicant's witnesses, not specifically contained herein, are incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.
24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

**Resolution moved by: Comr SCOTT SOCHON**  
**Seconded by: Vice Chrmn GERARD SCORZIELLO**  
**Affirmed by: Comrs Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino.**