

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held at the Council Chambers, City Hall, Clifton, New Jersey, on Wednesday, April 3, 2019. 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 applicants 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 ZALMAN GURKOV, SCOTT SOCHON, MICHAEL MOLNER, DANIEL TRENK, LOUIS DE STEFANO, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

Chrmn Zecchino advised all applicants 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 Louis DeStefano, seconded by Comr Daniel Trenk, the Minutes of the March 20, 2019, regular meeting were adopted with the unanimous approval of the entire Board.

#### **NEW HEARINGS**

1. **RONALD & JULIE SEELOGY**, 43 New Brier Lane, Block 67.07, Lot 36 – RA3 – Applicant proposes a rear second floor addition. The following variances are requested:  
1) Rear yard setback proposed at 31' where 35' is required. 2) Driveway is proposed to be widened 0' from the left side yard where 5' is required and 3' into the front of the house in an area not serving a garage.

The applicants, residing at 43 New Brier Lane, Clifton, New Jersey, were present and sworn. Also present and sworn was Lawrence P. Quirk of 15 Union Avenue, Rutherford, New Jersey, an architect. There were no objectors.

Ronald Seelogy testified that he and his wife request variance approval for a rear, second floor addition; that the rear yard setback requirement is 35 feet, and the proposal is for 31 feet; that in addition, a driveway is proposed to be widened 0 feet from the left side yard where 5 feet is required and 3 feet into the front of the house in an area not serving a garage.

Lawrence Quirk testified as an architect and described the proposed addition to the Board members.

After a review of the testimony, Comr Michael Molner moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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.

2. **AVROHOM DOV & AVIGAYIL SCHECHTER,**  
Variances 46 Patricia Place, Block 71.01, Lot 10 – RA3 –  
Applicant proposes to build a second floor addition over half of the existing house. The following variances are requested:  
1) Left side yard proposed at 4.6' where 6' is required.  
2) Combined side yards are 13.4' where 16' is required.

The applicants, residing at 46 Patricia Place, Clifton, New Jersey, were present and affirmed to give testimony. There were no objectors.

The applicants propose to build a second floor addition over half of the existing house at the premises; that the following variances are required: (1) Left side yard setback requirement is 6 feet, and the applicant is proposing 4 feet 6 inches; and (2) The combined side yard setback requirement is 16 feet, and the applicant is proposing 13 feet 4 inches; that the purpose of the addition is to add additional living space at the premises.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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. **HOWARD FISHMAN & SUZANNE FISHMAN,**  
Variances 480 Fenlon Blvd., Block 58.09, Lot 34  
-- RA1 – For bulk variances to increase the side and rear yards setback encroachments by adding an addition to the house located within the existing side and rear yard setbacks in place of the existing deck for which variances were previously obtained.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicants. Present and affirmed was Suzanne Fishman of 480 Fenlon Boulevard, Clifton, New Jersey.

The applicant testified that bulk variances are requested to increase the side and rear yard setback encroachments by adding an addition to the house located within the existing side and rear yard setbacks in place of the existing deck for which variances were previously obtained; that there will be no change in the existing footprint; that there will be no access from the outside through the basement; that the large bedroom on the first floor will be converted to a den; that the second floor expansion consists of four bedrooms and installation of two additional bathrooms and a laundry; that the proposal will provide better living quarters at the site and promote the purposes of the Municipal Land Use Law.

Mr. Carlet stated that the variances requested were the following: (1) side yard setback where 6 feet is required and 4.3 feet is proposed and existing; (2) rear yard

setback where 35 feet is permitted and 32.17 feet is proposed and existing; (3) proposed lot coverage is 1,350 square feet or 27 percent where the present lot coverage is 1287.32; (4) the number of stories presently is 1½ and proposed is 2 stories.

After a review of the testimony, Comr Louis DeStefano moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variances requested. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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.

4. **JAREK SZWED**, 86 Ackerman Avenue, Block 3.15, Lot 14 – M-2 – Applicant  
Use proposed is use 1250 square feet of the existing industrial building for a standalone kitchen cabinet showroom.  
Variance; The following variances are requested:  
Variances 1) Use variance for a retail use in an existing mixed use building within an M-2 zone.  
2) 24 parking spaces required and 22 parking spaces provided.  
3) Such other variances as may be required by law.

A. William Sala, Jr., Esq., with offices at 140 Hepburn Road, Clifton, New Jersey, appeared on behalf of the applicant. The applicant, residing at 86 Ackerman Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

Mr. Sala stated that the applicant proposes to use 1250 square feet of the existing industrial building for a standalone kitchen cabinet showroom; that a use variance is required for a retail use in an existing mixed use building within an M-2 zone; that 24 parking spaces are required, and the applicant is providing 22 parking spaces; that the business is low volume.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the use variance for a retail use. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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.

5. **HERLINDA SEGARRA**, 52 Forest Way, Block 40.14, Lot 26 – RA3 – Applicant  
Variance proposes to build a two-story rear addition.  
The following variance is requested:

1) Rear yard setback proposed at 28.5' where 35' is required.

The applicant, residing at 52 Forest Way, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that she requests variance approval to build a two-story rear addition to the subject premises; that the rear yard setback requirement is 35 feet, and the applicant is proposing 28.5 feet; that the purpose of the addition is to create more living space, and the proposal will not be detrimental to the neighborhood; that the pool set forth on the plan will be eliminated.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the two-story addition. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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.

6.  
Variances

**NATHAN & EMILY KAMELHAR,**  
57 Allwood Place, Block 57.05, Lot 2  
-- RA3 – Applicant proposes to demolish the existing home and construct a new single family home. The following variances are requested:  
1) Combined side yards proposed at 14' where a minimum of 16' is required.  
2) Lot coverage proposed at 32.9% where a maximum of 27' is required.  
3) Property was previously heard on February 20<sup>th</sup> 2019 and denied. This application reduces the height from 2½ stories to 2 stories; 33.4% lot coverage to 32.9% lot coverage, 13' combined side yard setback to 14' combined side yard setback. This reduces two variances and eliminates two variances.

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Clifton, New Jersey, appeared on behalf of the applicant. The applicants were present and affirmed to give testimony. Present and sworn was Douglas Battersby of 343 Cupsaw Drive, Ringwood, New Jersey, an architect.

Chrmn Zecchino announced that the within application had previously been denied and requested Mr. Peterson to set forth the substantial changes in order to overcome the doctrine of *res judicata*.

Mr. Peterson stated that there are substantial changes to the application, to wit: the height is reduced from 2½ stories to 2 stories, the lot coverage was reduced, the combined side yard setback was reduced; that the changes in the within application actually reduces two variances and eliminates two variances.

After hearing the substantial changes, Comr Louis DeStefano moved to hear the application on the grounds that the applicant has overcome the presumption of the doctrine of *res judicata*. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk,

Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion passed, and the applicant was instructed to continue to give testimony.

Mr. Battersby testified as to the changes made by the applicant; that the applicant proposes to demolish the existing home and construct a new single-family dwelling; that the applicant is seeking variances for combined side yards proposed at 14 feet where a minimum of 16 feet is required; variance for lot coverage where 27 percent is permitted, and the applicant is seeking 32.9 percent; that there will be no access to the basement from the outside.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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.

### **RESOLUTIONS**

Chrmn Zecchino stated that the Board would act upon the Resolutions set forth on the Agenda.

1. Upon motion made by Comr Louis DeStefano, seconded by Comr Michael Molner, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOHN & JACLYN COYNE for side yard setback variance for a second floor addition over existing first floor at 11 Henoah Avenue, Block 32.09, Lot 18, was adopted. RA3

2. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Scott Sochon, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ADVI KRASNIQI for bulk variances to construct a rear, one-story addition at 173 Clinton Avenue, Block 21.02, Lot 20, was adopted. RB1

3. Upon motion made by Comr George Foukas, seconded by Comr Michael Molner, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of YESHAYA ROSNER for bulk variances to construct two dormers over the existing house at 200 Edgewood Avenue, Block 57.04, Lot 23, was adopted. RA3

4. Upon motion made by Comr George Foukas, seconded by Comr Michael Molner, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of VMP HOLDING, LLC C/O JOSEPH KROKUS for bulk variances to convert an existing masonry building to a 2½-story two-family dwelling at 22 Delawanna Avenue, Block 61.07, Lot 8, was adopted. RB1

5. Upon motion made by Comr Roy Noonburg, seconded by Comr Scott Sochon, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of DANIEL & MARGARITA KATZEVICH for conditional use variance approval to utilize the property for a flex-industrial

building with warehousing distribution, contractor storage, and manufacturing and office use at 13 Somerset Place, Block 56.07, Lot 11.02, was adopted. M-2

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

Respectfully submitted,

JOHN D. POGORELEC  
COUNSEL SECRETARY

**MEETING OF APRIL 3, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: RONALD & JULIE SEELOGY for premises known as: 43 New Brier Lane, Block 67.07, Lot 36 be and the same is hereby: GRANTED rear yard setback variances for a second floor addition and widening the driveway 0 feet from the left side yard and 3 feet into the front of the house in an area not serving a garage.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on April 3, 2019. 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 requests variance approval as aforesaid for a rear second floor addition and widening the driveway at premises located at 43 New Brier Lane, Block 67.07, Lot 36, which premises are located in an RA3 zone; and

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

- a. The applicant requests approval for a rear, second floor addition;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 31 feet;
- c. The applicant proposes to widen the driveway 0 feet from the left side yard and 3 feet into the front of the house in an area not serving a garage;
- d. That the applicant has shown sufficient hardship to justify the grant of the variances requested;
- e. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a second floor addition and expansion of driveway at premises located at 43 New Brier Lane, Block 67.07, Lot 36, be and the same is hereby approved and the variances for rear yard setback, driveway left side yard setback and 3 feet into the front of the house in an area not serving a garage be and the same 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 Gregory Associates, 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 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, but 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, or as amended.

**Resolution moved by: Comr MICHAEL MOLNER.**

**Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.**

**Affirmed by: Comrs Daniel Trenk, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

**MEETING OF APRIL 3, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: AVROHOM DOV & AVIGAYIL SCHECHTER for premises known as: 46 Patricia Place, Block 71.01, Lot 10 be and the same is hereby: GRANTED approval to erect a second floor addition over half of the existing house.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on April 3, 2019. 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 variance approval to erect a second floor addition over half of the existing house at premises located at 46 Patricia Place, Block 71.01, Lot 10, which premises are located in an RA3 zone; and

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

- a. The applicant proposes a second floor addition over half of the existing house;
- b. The left side yard setback requirement is 6 feet, and the applicant is proposing 4.6 feet;
- c. The combined side yard setback requirement is 16 feet, and the applicant is proposing 13.4 feet;
- d. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- e. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a second floor addition over half of the existing house at premises located at 46 Patricia Place, Block 71.01, Lot 10, be and the same is hereby approved and the variances for left side yard and combined side yard setbacks be and the same 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 Gregory Associates, 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 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, but 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, or as amended.

**Resolution moved by: Comr GEORGE FOUKAS.**

**Seconded by: Comr MICHAEL MOLNER.**

**Affirmed by: Comrs Daniel Trenk, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

**MEETING OF APRIL 3, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: HOWARD FISHMAN & SUZANNE FISHMAN for premises known as: 480 Fenlon Boulevard, Block 58.09, Lot 34 be and the same is hereby: GRANTED side and rear yard setback encroachments for an addition to the house located within the existing side and rear yard setbacks in place of the existing deck for which variances were previously granted.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on April 3, 2019. 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 Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid for an addition to the house in place of the existing deck at premises located at 480 Fenlon Boulevard, Block 58.09, Lot 34, which premises are located in an RA1 zone; and

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

- a. The applicant requests approval for an addition to the house located within the existing side yard and rear yard setbacks in place of the existing deck which was granted a variance;
- b. There will be no change in the existing footprint of the building;
- c. The side yard setback requirement is 6 feet, and the applicant is proposing 4.3 feet;
- d. The rear yard setback requirement is 35 feet, and the applicant is proposing 32.17 feet;
- e. The lot coverage is presently 1287.32 square feet, and the applicant is requesting 1350 square feet;
- f. The number of stories proposed is 2 where the existing number of stories is 1½;
- g. There will be no access from the outside to the basement;
- h. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- i. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for an addition to the subject premises located within the existing side and rear yard setback at premises located at 480 Fenlon Boulevard, Block 58.09, Lot 34, be and the same is hereby approved and the variances for side yard, rear yard, and lot coverage be and the same 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 Gregory Associates, 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 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, but 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, or as amended.

**Resolution moved by: Comr LOUIS DE STEFANO.**  
**Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.**  
**Affirmed by: Comrs Daniel Trenk, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

**MEETING OF APRIL 3, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JAREK SZWED for premises known as: 86 Ackerman Avenue, Block 3.15, Lot 14 be and the same is hereby: GRANTED use variance of 1250 square feet of retail use in an existing mixed use building and parking variance within an M-2 zone.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on April 3, 2019. 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 use variance approval for 1250 square feet of retail use in an existing mixed use building at premises located at 86 Ackerman Avenue, Block 3.15, Lot 14, which premises are located in an M-2 zone; and

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

- a. The premises in question is located in an M-2 zone;
- b. The applicant proposes the utilization of 1250 square feet for a retail use;
- c. A use variance is required for a retail use in a mixed use building;
- d. The applicant proposes 22 parking spaces where 24 parking spaces are required;
- e. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- f. The applicant has shown sufficient hardship to justify the grant of the parking variance;
- g. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a retail use in a mixed use building within an M-2 zone and parking at premises located at 86 Ackerman Avenue, Block 3.15, Lot 14, be and the same is hereby approved and the use variance and parking variance be and the same 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 Gregory Associates, 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 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, but 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, or as amended.

**Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.**

**Seconded by: Comr MICHAEL MOLNER.**

**Affirmed by: Comrs Daniel Trenk, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

**MEETING OF APRIL 3, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: HERLINDA SEGARRA for premises known as: 52 Forest Way, Block 40.14, Lot 26 be and the same is hereby: GRANTED rear yard setback variance for a two-story rear addition.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on April 3, 2019. 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 rear yard setback variance approval to build a two-story addition at premises located at 52 Forest Way, Block 40.14, Lot 26, which premises are located in an RA3 zone; and

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

- a. The applicant proposes a two-story rear addition to the subject premises;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 28.5 feet;
- c. The applicant has indicated that the pool shown on the plans will be eliminated;
- d. That the applicant has shown sufficient hardship to justify the grant of the variance requested;
- e. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a two-story addition at premises located at 52 Forest Way, Block 40.14, Lot 26, be and the same is hereby approved and the rear yard setback variance be and the same 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 Gregory Associates, 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 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, but 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, or as amended.

**Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.**

**Seconded by: Comr LOUIS DE STEFANO.**

**Affirmed by: Comrs Daniel Trenk, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

**MEETING OF APRIL 3, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: NATHAN & EMILY KAMELHAR for premises known as: 57 Allwood Place, Block 57.05, Lot 2 be and the same is hereby: GRANTED combined side yard setback variance and lot coverage variance for a new single-family home.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on April 3, 2019. 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 previously made application to the Board to demolish the existing home and construct a new single-family home with multiple variances at premises located at 57 Allwood Place, Block 57.05, Lot 2, which premises are located in an RA3 zone; and

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

- a. The applicant previously came before the Board and requested variance approval which was denied by the Board;
- b. The applicant subsequently revised its plans and made substantial changes to the application in order to overcome the presumption of the doctrine of *res judicata*;
- c. The applicant now seeks approval to demolish the existing home and build a new single-family home at the subject premises;
- d. The combined side yard setback requirement is 16 feet, and the applicant is proposing 14 feet;
- e. The lot coverage requirement permitted is 27 percent, and the applicant is proposing 32.9 percent;
- f. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- g. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application to demolish the existing home and construct a new single-family home at premises located at 57 Allwood Place, Block 57.05, Lot 2, be and the same is hereby approved and the combined side yard setback and lot coverage variances be and the same 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 Gregory Associates, 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 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, but 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, or as amended.

**Resolution moved by: Comr GEORGE FOUKAS.**  
**Seconded by: Comr MICHAEL MOLNER.**  
**Affirmed by: Comrs Daniel Trenk, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**