

Minutes of a virtual meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, June 3, 2020. 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, LOUIS DE STEFANO, GEORGE FOUKAS, AND CHRNMN MARK ZECCHINO.

ABSENT: COMRS DANIEL TRENK, ROY NOONBURG AND VICE-CHRMN GERARD SCORZIELLO.

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 Scott Sochon, seconded by Comr Louis DeStefano, the Minutes of the May 20, 2020, regular meeting were adopted with the unanimous approval of the entire Board.

NEW HEARINGS – VIRTUAL MEETING

1. MOHAMMAD KARITI AND ALHAG ESSA,
Use 10 Van Orden Place, Block 17.01, Lot 22
Variance -- RA3 – Use variance is required to
 permit the expansion of the existing two-
 family house (2,791 square feet to 4,549
 square feet) together with site plan
 approval. No additional bulk variances
 are required. The existing rear yard
 setback will not be expanded.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Mohammad Kariti of 10 Van Orden Place, Clifton, New Jersey; and Nassir Almukhtar, an architect, with

offices in Paterson, New Jersey. There was one interested party, Gustavo Rucinos of 13 West Seventh Street, Clifton, New Jersey.

Mr. Carlet stated that the applicant requests variance approval to permit the expansion of an existing two-family dwelling together with site plan approval.

Mr. Almukhtar testified as the architect and stated that the present square footage is 2,791, and the applicant is proposing 4,549 square feet; that the applicant is not seeking any bulk variances; that there is an existing 2.5 foot rear yard setback which will remain; that the applicant's hardship is the odd shape of the lot and where the house is located; that the size of the lot and size of the house are all in conformity.

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 application. The motion was seconded by Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino. By a six 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. **DALCO & GHAGHOIL ENTERPRISES LLC,**
Use 247 Piaget Avenue & 1330 Main Avenue,
Variances; Blocks 11.01 and 10.16, Lots 15 and 18
Variances -- B-C – This is an application to expand the outdoor eating area by adding a 1260 square foot al fresco dining terrace in the rear of the building to go along with the previously approved dining area in the former driveway servicing the building. To replace the lost parking which will occur if the variance is granted, the Applicant has entered into a lease agreement to provide off-site valet parking at the existing Welsh Farms diagonally across Main Avenue from the Applicant's restaurant for 27 valet stacked parking spaces. Three (3) conditional use variances are required.
1. The first will be to expand the existing

conditional restaurant use on the subject property which does not meet the conditions required for the conditional use.

2. The second conditional use variance is required to permit stacked parking.

3. A third conditional use variance is required to permit valet parking because, again, conditions for both uses are not met.

4. A bulk variance is required because the parking spaces on Block 10.16, Lot 18 do not meet the required side, front and rear yard setback requirements.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: David Newkirk, an Engineer, with offices at 420 Route 46 East, Fairfield, New Jersey; Peter Steck, a Planner, with offices at 80 Maplewood Avenue, Maplewood, New Jersey; and Mohammad Ghaghoil, Managing Member, of 247 Piaget Avenue, Clifton, New Jersey. There were no objectors.

Mr. Newkirk testified as an Engineer and stated that the applicant proposes to expand an outdoor eating area by adding a 1,260 square feet al fresco dining terrace in the rear of the building to go along with the previously approved dining area in the former driveway servicing the building; that the applicant proposes to replace lost parking by entering into an agreement to provide off-site valet parking at the existing Welsh Farms diagonally across the street from applicant's restaurant for 27 stacked parking spaces.

Mr. Steck testified as a Planner and stated that the applicant is seeking three conditional use variances: The first is to expand the existing conditional use on the subject property with ingress and egress on Lots 11 and 12 which have previously been approved; the second is a conditional use variance to permit stacked parking; the third is a conditional use variance to permit valet parking; that a bulk variance for front and rear yard setback is requested since parking spaces on Lot 18 in Block 10.16 do not meet the setback requirements; that the purpose of the expansion is to promote the improvement of the business and the soundness of the community and character necessary to maintain property values and the neighborhood integrity; that the restaurant has been there for 60 years and the variance will help it remain; that the expansion supports the Master Plan and more specifically, Goals 7 and 8; that the expansion also promotes the purposes of zoning—to wit, Paragraphs a, e, m, and i; that the applicant has satisfied the positive and negative criteria required for approval of the application.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution subject to the following conditions:

1. That the expansion is subject to the continuation of the lease for valet parking, and in the event said lease is terminated, the approval is withdrawn;
2. That there be no less than two valet attendants; and
3. No enclosure of the proposed expansion.

The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino. By a six 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. **M & C FIT FOREVER, INC.**, 130 Lakeview Avenue, Block 7.05, Lot 11 – B-C –
Use Variances required for Herb-A-Life store
Variances with a commercial kitchen to prepare shakes:

 1) Use variance requested for mixed use building.

 2) Conditional use variance requested for fast food (bulk requirements and parking not met).

 3) Waiver requested for Site Plan Approval.

Glenn Peterson, Esq., with offices at 1037 Route 46 East, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Mario Martinez on behalf of the applicant.

Mr. Peterson stated that the applicant requests use variance approvals for a Herb-a-Life store with a commercial kitchen to prepare shakes at the subject premises; that a use variance is requested for a mixed use building; that a conditional use variance is requested for fast food since the bulk requirements and parking are not met; that the applicant is seeking a waiver of site plan approval; that the use is predominantly retail in nature and is appropriate for the subject location.

There was one interested party: Zalchet Hotcley of 59 Caroline Avenue, Clifton, New Jersey, who inquired as to the parking and hours of operation.

After a review of the testimony, Comr Louis DeStefano moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution subject to the following conditions:

1. That there be no exterior changes to the premises;
2. That the hours of operation will be from 7 A.M. to 7:30 P.M., Monday through Saturday; and
3. There will be no more than six (6) chairs in the premises.

The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino. By a six 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. **ROSARIO RIZZO**, 620 Broad Street, Block 34.02, Lot 2 – M-2 – Applicant
Use
Variances
proposes to use the rear yard of the auto body shop as a towing yard. A portion of the building will also be used for a towing office area and indoor storage of vehicles. A use variance is requested as a towing yard is not a listed permitted use and for two uses on one lot. Any other relief as deemed necessary by the Board.

Dominic Iannarella, Esq., with offices at 139 Lakeview Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was Rosario Rizzo of 793 Van Houten Avenue, Clifton, New Jersey; and Nicholas Graviano, a Planner, with offices at 65 Cedar Avenue, Long Branch, New Jersey. There were no objectors.

Mr. Iannarella stated that the applicant proposes to use the rear yard of the auto body shop located at 620 Broad Street as a towing yard; that a portion of the building will also be used for towing office and indoor storage of vehicles.

Mr. Graviano testified as a Planner and stated that a use variance is required since the towing yard is not a listed permitted use and for two uses on one lot; that the property is presently used as an auto body shop and storage of vehicles; that the proposed use is consistent with how the premises is presently being used; that

the proposal satisfies the positive and negative criteria required for the grant of a use variance.

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 use variance requested. The motion was seconded by Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino. By a six 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.

CONTINUED HEARING

1. **UKRAINIAN CULTURAL CENTER OF CLIFTON,**
Re-Subdivision; **INC., 110 Vincent Drive, Block 63.01, Lots**
Use **24.01 and 24.02 – RA1 – Re-subdivision of the**
Variance; **property into one single lot, use variances for the**
Variances **proposed use as a cultural, educational and**
social center and for having more than one
principal use on the same lot and bulk variances
for building height (30’ permitted 32.89’
proposed), and size of parking spaces
(9’x19’ permitted, 8’x18’ proposed).

This matter was continued without date.

RESOLUTIONS

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

1. Upon motion made by Comr George Foukas, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of LINDA SILUK for left side yard setback variance for a rear two-story addition and a second floor add-a-level at 93 Sherwood Street, Block 25.06, Lot 5, was adopted. RA3

2. Upon motion made by Comr Louis DeStefano, seconded by Comr Michael Molner, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MARIA PLUMMER for rear yard setback variance for a rear addition at 18 Brantwood Place, Block 63.01, Lot 43, was adopted. RA1

3. Upon motion made by Comr Michael Molner, seconded by Comr Louis DeStefano, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOHAN NUNEZ for rear yard setback and lot coverage variances for a rear yard deck at 58 Hilltop Court, Block 48.02, Lot 4, was adopted. RA3

4. Upon motion made by Comr Louis DeStefano, seconded by Comr Michael Molner, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of 48 BELMONT AVE LLC C/O HERSCHEL BLAUSTEIN for variances for left side yard, right side yard, combined side yards, and lot coverage for a second floor add-a-level over the existing footprint and a new rear deck at 48 Belmont Avenue, Block 70.02, Lot 59, was adopted. RA3

5. Upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution GRANTING the application of DOV & ORA BANACH for right side yard, combined side yards, and front yard setback variances for a rear two-story addition at 26 Lenox Avenue, Block 70.01, Lot 50, was adopted. RA3

6. Upon motion made by Comr Louis DeStefano, seconded by Comr Michael Molner, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino, the Resolution ADOPTING the 2019 ANNUAL REPORT of the Clifton Zoning Board of Adjustment prepared by Gregory Associates, LLC, was adopted.

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF JUNE 3, 2020.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MOHAMMAD KARITI AND ALHAG ESSA for premises known as: 10 Van Orden Place, Block 17.01, Lot 22 be and the same is hereby: GRANTED a use variance to permit the expansion of the existing two-family dwelling.

Testimony concerning the aforesaid application was taken by the Board at its virtual meeting on June 3, 2020. Said testimony along with the application and 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 use variance approval to permit the expansion of an existing two-family dwelling at premises located at 10 Van Orden Place, Block 17.01, Lot 22, 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 proposes to expand an existing two-family dwelling from 2,791 square feet to 4,549 square feet;
- b. No bulk variances are required;
- c. The expansion of the current house requires a use variance since it is a pre-existing, non-conforming use;
- d. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- e. The size of the lot and the size of the house are in conformity with the other structures in the neighborhood;
- f. The applicant's hardship is the odd shape of the lot on which the house is located;
- g. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the expansion 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 expansion will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to expand an existing two-family dwelling at premises located at 10 Van Orden Place, Block 17.01, Lot 22, be and the same is hereby approved and the use 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; 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 LOUIS DE STEFANO.
Seconded by: Comr SCOTT SOCHON.
Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino.

MEETING OF JUNE 3, 2020.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**,
that the application of: **DALCO & GHAGHOIL ENTERPRISES LLC**
for premises known as: **247 Piaget Ave. & 1330 Main Ave.,**
Block 11.01 & 10.16, Lots 15 and 18
be and the same is hereby: **GRANTED conditional use variances, use variance, and**
bulk variance to expand the outdoor eating area by 1,260 square feet in the rear of
the existing restaurant.

Testimony concerning the aforesaid application was taken by the Board at its virtual meeting on June 3, 2020. Said testimony along with the application and 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 use variance, conditional use variances, and bulk variance to expand the outdoor eating area by 1,260 square feet at the rear of the existing restaurant at premises located at 247 Piaget Avenue and 1330 Main Avenue, Blocks 11.01 and 10.16, Lots 15 and 18, which premises are located in a B-C zone; and

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

- a. The applicant proposes to expand the outdoor eating area by adding a 1,260 square foot dining terrace in the rear of the building;
- b. To replace the lost parking, the applicant has entered into a lease to provide off-site valet parking at the existing Welsh Farms diagonally across Main Avenue from applicant's restaurant for 27 valet stacked parking spaces;
- c. The expansion requires conditional use variances, use variance, and bulk variance;
- d. Based upon the testimony of the applicant's planner, the proposal satisfies Goals 7 and 8 of the Master Plan;
- e. The proposal also promotes the purposes of zoning as set forth in N.J.S.A. 40:55D-2 (a), (e), (m), and (i);
- f. The applicant has satisfied the positive and negative criteria required for the grant of the conditional use variances and use variance;
- g. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;
- h. 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 based upon the testimony of the applicant's planner; and

WHEREAS, the applicant's proposal to provide 27 valet stacked parking spaces will help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for expansion of the outdoor eating area by adding 1,260 square feet in the rear of the building at premises located at 247 Piaget Avenue and 1330 Main Avenue, Blocks 11.01 and 10.16, Lots 15 and 18, be and the same is hereby approved and the conditional use variances and use variance and bulk 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 CONDITIONS:**

A. That the expansion is subject to the continuation of the lease for valet parking, and in the event said lease is terminated, the approval is withdrawn;

B. That there be no less than two valet attendants;

C. No enclosure of the proposed expansion; and

D. PASSAIC COUNTY PLANNING BOARD APPROVAL.

FURTHER 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; 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 LOUIS DE STEFANO.

Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino.

MEETING OF JUNE 3, 2020.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: M & C FIT FOREVER, INC. for premises known as: 130 Lakeview Avenue, Block 7.05, Lot 11 be and the same is hereby: GRANTED a use variance and conditional use variance for an Herb-A-Life store with a commercial kitchen to prepare shakes.

Testimony concerning the aforesaid application was taken by the Board at its virtual meeting on June 3, 2020. Said testimony along with the application and 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 use variance and conditional use variance for an Herb-A-Life store with a commercial kitchen to prepare shakes at premises located at 130 Lakeview Avenue, Block 7.05, Lot 11, which premises are located in a B-C zone; and

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

- a. The applicant proposes an Herb-A-Life store with a commercial kitchen to prepare shakes;
- b. A use variance is required for a mixed use building;
- c. A conditional use variance is required for fast food;
- d. The applicant has satisfied the positive and negative criteria required for the grant of the use variance;
- 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 Herb-A-Life store with a commercial kitchen to prepare shakes at premises located at 130 Lakeview Avenue, Block 7.05, Lot 11, be and the same is hereby approved and the conditional use variance and use 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:**

- A. That there be no exterior changes to the premises;
- B. That the hours of operation will be from 7 A.M. to 7:30 P.M., Monday through Saturday;
- C. There will be no more than six (6) chairs in the premises; and
- D. SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL.

AND FURTHER 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; 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 LOUIS DE STEFANO.
Seconded by: Comr MICHAEL MOLNER.
Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino.

MEETING OF JUNE 3, 2020.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ROSARIO RIZZO for premises known as: 620 Broad Street, Block 34.02, Lot 2 be and the same is hereby: GRANTED use variance for a towing yard, towing office area, and indoor storage of vehicles.

Testimony concerning the aforesaid application was taken by the Board at its virtual meeting on June 3, 2020. Said testimony along with the application and 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 use variance to utilizes the rear yard of the auto body shop as a towing yard at premises located at 620 Broad Street, Block 34.02, Lot 2, which premises are located in an M-2 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 proposes to use the rear yard of the auto body shop as a towing yard, an office area, and an indoor storage of vehicles;
- b. A use variance is required since a towing yard is not a permitted use;
- c. A use variance is also required for two uses on one lot;
- d. Based upon the testimony presented by the applicant's planner, the proposal satisfies the positive and negative criteria required for the grant of a use variance;
- 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 to use the rear yard of the auto body shop as a towing yard with an office and indoor storage of vehicles at premises located at 620 Broad Street, Block 34.02, Lot 2, be and the same is hereby approved and the use variances for a towing yard and two uses on one property be and the same are hereby granted subject to such further governmental approvals as may be required by law and **subject to the following:**

A. SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL; and FURTHER 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; 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: Comr SCOTT SOCHON.

Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, and Chrmn Mark Zecchino.