

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, June 5, 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, LOUIS DE STEFANO, GEORGE FOUKAS, ROY NOONBURG, AND CHRMN MARK ZECCHINO.

ABSENT: COMR DANIEL TRENK 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 Louis DeStefano, seconded by Comr Scott Sochon, the Minutes of the May 15, 2019, regular meeting were adopted with the unanimous approval of the entire Board.

Upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, the Minutes of the May 22, 2019, special meeting were adopted with the unanimous approval of the entire Board.

### NEW HEARINGS

1. **MICHAEL & TAYLA SCHMIDT**, 47 Lorrie Lane, Variance Block 71.04, Lot 32 – RA3 – Applicant proposes a rear addition and second floor addition. The following variances are requested:
  - 1) Rear yard proposed at 24.72' where 25' is permitted.
  - 2) Right side yard proposed at 5.3' where 6' is required.
  - 3) Left side yard proposed at 5.22' where 6' is required.
  - 4) Combined side yard is 10.52' where 16' is required.
  - 5) Lot coverage proposed at 31% where 27% is permitted.

The applicants, residing at 47 Lorrie Lane, Clifton, New Jersey, were present and sworn. There were no objectors.

Comr DeStefano excused himself from participating in the matter.

Michael Schmidt testified that he requests variance approval for a rear addition and second floor addition at the subject premises; that the purpose is to create more family space with five children; that there are similar additions in the neighborhood; that the rear yard setback requirement is 25 feet, and he is proposing 24.72 feet; that the right side yard setback requirement is 6 feet, and he is proposing 5.3 feet; that the left side yard setback requirement is 6 feet, and the

applicant is proposing 5.22 feet; that the combined side yard setback requirement is 16 feet, and the applicant is proposing 10.52 feet; that the lot coverage permitted is 27 percent, and the applicant is proposing 31 percent.

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 for the motion were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, 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. **EUGENIUSZ MYSLIWIEC**, 49 Sargeant Avenue, Variance Block 36.12, Lot 3 – RB1 – Applicant proposes to build two dormers on the right side of the house. The following variances are requested:
  - 1) Right side yard proposed at 7.68' where 12' is required.
  - 2) Front yard proposed at 20' where 25' is required.

The applicant and his son, Pavel Mysliwicz, residing at 49 Sargeant Avenue, Clifton, New Jersey, were present and sworn. There were no objectors.

The applicant testified that he requests variance approval to build two dormers on the right side of the house; that the right side yard setback requirement is 12 feet, and the applicant is proposing 7.68 feet; that the front yard setback requirement is 25 feet, and the applicant is proposing 20 feet; that the purpose is to add two additional bedrooms.

After a review of the testimony, Comr Roy Noonburg 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 Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, 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. **JIHAD R. ABDELAZIZ**, 9 Abbe Lane, Block 27.12, Variance Lot 2 – RA2 – Applicant proposes to install a 5' solid fence along the rear of their property facing Grove Street. A variance is request for a 5' high solid fence where a 4' high, 50% open fence is permitted.

The applicant, residing at 9 Abbe Lane, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he proposes to install a 5-foot-high solid fence along the rear of his premises facing Grove Street; that a variance is requested for a 5-foot-high solid fence where a 4-foot-high 50 percent open fence is permitted; that the purpose of the fence is to provide safety for his child from Grove Street; that it will also create privacy for the premises.

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 Comr

George Foukas. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, 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. **QUICKS II, LLC & QUICKS BAKERY LLC,**  
Use 1142 Route 46 West, Block 44.04, Lot 25  
Variances: -- B-D – To permit the conversion of the  
Variance existing billiard hall into a delicatessen containing 2,150 square feet and a wholesale bakery with no sales permitted on the property containing 3,380 square feet, a Conditional Use Variance is required because the requirements of the Zoning Ordinance for the conditional use of a fast food restaurant including minimum lot area (25,000 square feet required, 18,296 square feet provided), minimum lot width (125 feet required, 93.45 feet provided), minimum side yard setbacks (30 feet each required, 19.5 feet and 0 feet provided), maximum lot coverage 25% (4,574 square feet permitted, 8800 feet existing). All of the foregoing are existing conditions, and no additions are proposed to the building. Also 30 parking spaces are required and 22 spaces are provided. Further, a Use Variance is required because a wholesale bakery is not permitted in the zone.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Shady Suliman, 1304 84<sup>th</sup> Street, North Bergen, New Jersey; Ahmed Suliman, 295 W. Milton Avenue, Rahway, New Jersey; Motusem Khalil, 6208 Jackson Street, West New York, New Jersey; and Peter Steck of 80 Maplewood Avenue, Maplewood, New Jersey, an architect and a planner.

Mr. Carlet stated that the applicant requests a D-3 conditional use variance and an amended site plan approval to convert an existing billiard hall into a delicatessen containing 2,150 square feet and a wholesale bakery containing 3,380 square feet.

Shady Suliman testified that he has a similar business in Rahway, New Jersey; that the uses at the site, in addition to the commercial bakery and a delicatessen, include a psychic, plumbing business, and a dry cleaners; that the proposed bakery will be a wholesale only; that the bakery will operate from 5 A.M. to 8 P.M. with two employees; that there will also be a deli located at the site which will have four employees and will operate from 5 A.M. to 1 A.M.

Peter Steck testified as a planner, stating that he prepared a handout which consisted of four pages which included five photographs, a layout of the site, and zoning schedule. Said handout was offered into evidence as "A-1." Mr. Steck stated that the deli is considered to be a fast food restaurant according to the City of Clifton Zoning Ordinance; that it does not meet requirements for a conditional use for fast food; that the minimum lot area required is 25,000 square feet, and the applicant has 18,296 square feet; that the minimum lot width required is 125 feet,

and the applicant provides 93.45 feet; that the minimum side yard setbacks 30 feet each required, and the applicant provides 19.5 feet and 0 feet; that the maximum lot coverage permitted is 25 percent, or 4,574 square feet, and there exists 8,800 square feet; that all the aforesaid are existing conditions; that there will be no additions proposed; that 30 parking spaces are required and 22 parking spaces are provided; that the proposal satisfies some of the items set forth in the Master Plan; that the applicant proposes garbage collection not before 7 A.M. or after 7 P.M. and said garbage collection would occur approximately two to three times a week; that the proposal is more of a retail use more than a fast food; that the proposal will not have an adverse effect on the adjacent properties in the neighborhood and will not impair the intent and purpose of the zone plan and the zone ordinance; that it is a less intense than the previous use at the site; that the deviations are minor.

Zoning Officer Daniel Howell requested that the applicant submit a layout of the seating and tables as set forth in the deli.

After a review of the testimony, Comr Roy Noonburg moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the following stipulations:

- a. There be a garbage enclosure;
- b. That the applicant furnish a layout of the seating and tables in the deli;
- c. That the hours of operation shall be from 5 A.M. to 12 A.M. for the deli and for the bakery shall be permitted to operate seven days a week, 5 A.M. to 8 P.M.;
- d. That there will be no more than two employees in the bakery and four employees in the deli;
- e. That there will be a maximum of 20 seats in the deli;
- f. That the garbage pick-up will be not before 7 A.M. or after 7 P.M.

The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, 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. **KMG DEVELOPMENT, LLC, 596 Clifton Avenue**  
Use (6<sup>th</sup> Street), Block 20.04, Lot 24 – B-A1 –  
Variance; Use variance required for two principal uses on  
Variancesthe same lot and bulk variances are required  
for front yard setback (25 feet required, 9 feet  
proposed) and a minimum side yard setback  
(1 foot and 2 feet 6 inches proposed, 5 feet  
required) in order to permit the paving of 7  
parking spaces for the subject property, 2 to be  
used by the residential occupants of the house  
and 5 to be used for the tenants of the  
property with the same ownership situated  
immediately to the east of the subject  
property.

This matter was continued until the June 19, 2019, meeting to correct the defective notice.

6. **NJVM PROPERTIES, LLC, 473 Route 46**  
Use (34 Trenton Ave.), Block 6.08, Lot 4 – M-2 –  
Variance; Conditional Use Approval under Clifton Zoning  
Variance Ordinance Section 461-36 et seq. of a

wireless telecommunications contractor and on site storage of steel and electronic wiring/ construction materials within 100 feet of a residential district requiring relief from the setback requirements as set forth in Section 461-36 E (3).

Jack A. Traina, Esq., with offices at 162 Valley Boulevard, Wood-Ridge, New Jersey, appeared on behalf of the applicant. Present and sworn was Nicholas Leone of 48 Hamilton Avenue, Hasbrouck Heights, New Jersey; and H. Chinan of Koestner Associates, 61 Hudson Street, Hackensack, New Jersey. There were two interested parties: Ana Djurich and Stan Djurich of 200 East 11<sup>th</sup> Street, Clifton, New Jersey.

Mr. Traina stated that the applicant requests a D(3) conditional use variance to change the use of the existing plastic mold fabrication facility to a wireless telecommunications contractor warehouse with interior overnight parking spaces; that the applicant proposes to occupy the existing structure with internal storage of steel and electronic wiring equipment with overnight interior parking of approximately ten service vehicles for a wireless telecommunication contractor; that the existing silos at the premises will be removed; that there will be 40 parking spaces at the site.

Mr. Leone testified that the present use of the site is industrial fabrication which uses heavy machinery and heavy truck traffic; that the proposed applicant is a telecommunications contractor, and there will be motor vehicles and vans coming to the premises instead of heavy truck traffic; that the applicant will be operating five days a week from 7 A.M. to 5 P.M. with some hours on Saturday morning; that there will be 15 office employees and 25 field representatives.

Mr. Chinan, on behalf of Koestner Associates, testified that the existing silos at the site will be removed; that there will be 40 parking spaces, including two accessible spaces, a new proposed concrete landing at the entry, a new accessible ramp, and a 12- by 25-foot loading area; that the site is particularly suited for the proposed use; that the proposed use is less intense than the previous use at the site; that there are minor deviations from the conditional use requirements.

The Board reviewed the report of its planner, Gregory Associates, LLC, dated May 10, 2019; and reports of its engineering consultant, Neglia Engineering, dated May 10, 2019, and revised June 4, 2019.

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 conditional use variance with the stipulation that the applicant comply with all the requirements set forth in the revised letter of Neglia Engineering dated June 4, 2019. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, 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.

7. **JM BAL REALTY LLC**, 443 Lexington Avenue, Variances Block 8.08, Lot 14 – B-C – Applicant proposes to construct a canopy (accessory structure) over the existing gasoline pump island. The following variances are requested:
  - 1) Front yard setback proposed at 2.33' where 60' is required.

- 2) Street side yard setback proposed at 0.3' where 25' is required.
- 3) Canopy will be in the front yard and accessory structures are permitted in the rear yard.

Michael J. Andalaft, Esq., with offices at 1121 Main Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn was John Balonze of 427 Mt. Pleasant Avenue, Woodland Park, New Jersey. There were no objectors.

Mr. Balonze testified that he requests variance approval to construct a canopy as an accessory use over the existing gasoline pump island at the subject premises; that the gas station probably is the only gas station in Clifton that does not have a canopy; that the front yard setback requirement is 60 feet, and he is proposing 2.33 feet; that the street side yard setback requirement is 25 feet, and he is proposing 0.3 feet; that the canopy will be in the front yard and accessory structures are permitted in the rear yard; that the canopy will provide safety and protection for the employees and customers from inclement weather.

After a review of the testimony, Comr Roy Noonburg moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variances requested for the canopy. The motion was seconded by Comr Zalman Gurkov. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, 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 Mark 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 Louis DeStefano, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of PLJ PROPERTY MANAGEMENT LLC for rear yard setback variance for a rear addition and a second floor addition at 3 Yorkshire Road, Block 52.02, Lot 5, was adopted. RA1

2. Upon motion made by Comr Louis DeStefano, seconded by Comr George Foukas, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOANNE MACBETH for left side yard setback and lot coverage variance for a rear yard deck with wheelchair access from the left side at 11 Wheeler Street, Block 73.05, Lot 26, was adopted. RB1

3. Upon motion made by Comr Roy Noonburg, seconded by Comr George Foukas, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of GEORGE BITAR for right side yard setback to widen the existing driveway to 20 feet and 16-foot curb cut at 11 Luisser Street, Block 55.04, Lot 37, was adopted. RA2

4. Upon motion made by Comr Louis DeStefano, seconded by Comr Roy Noonburg, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ANA LOPEZ for a use variance to convert the first floor of a mixed

use building to a “Doggie Day Care” facility at 657 Lexington Avenue, Block 2.11, Lot 33, was adopted. B-C

5. Upon motion made by Comr Roy Noonburg, seconded by Comr Louis DeStefano, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of SHAWNEE WAREHOUSING SERVICES, INC. for use variance and D(3) conditional use variance to permit warehouse and distribution on the site and further to permit storage of trailers other than in a defined loading dock area; and preliminary and final site plan approval at 50 Somerset Place, Block 49.11, Lot 72, was adopted. M-2

6. Upon motion made by Comr Michael Molner, seconded by Comr Roy Noonburg, and affirmed by Comrs Michael Molner, Louis DeStefano, and Roy Noonburg, the Resolution GRANTING the application of 1030 E. 174<sup>TH</sup> ST., LLC/RICHARD BECKER, MEMBER for use variance to permit the proposed dry cleaners and continuation of existing two-family non-conforming use, use variance to permit more than one principal use on a lot; preliminary and final site plan approval at 781 Van Houten Avenue, Block 42.02, Lot 7, was adopted. B-C and R-B2

7. Upon motion made by Comr Roy Noonburg, seconded by Comr George Foukas, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino, the Resolution GRANTING the application of PUBLIC SERVICE ELECTRIC & GAS COMPANY for preliminary and final site plan approval, height variance and conditional use variance to install new electrical process equipment to improve system reliability and capacity including a new 69kV gas insulated switchgear (GIS) building and a 23kV GIS building; replacement of two transmission towers with monopoles; installation of a perimeter wall with fence segments and merger of Block 41.08, Lot 2 and Block 47.12, Lot 3 at 121 St. Andrew’s Boulevard, Block 41.08, Lot 2 and Block 47.12, Lot 3, was adopted.

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

Respectfully submitted,

JOHN D. POGORELEC  
COUNSEL SECRETARY

**MEETING OF JUNE 5, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MICHAEL & TAYLA SCHMIDT for premises known as: 47 Lorrie Lane, Block 71.04, Lot 32 be and the same is hereby: GRANTED rear yard, right side yard, left side yard, combined side yards, and lot coverage variances for a rear addition and second floor addition.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 5, 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 as aforesaid for a rear addition and second floor addition at premises located at 47 Lorrie Lane, Block 71.04, Lot 32, 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 requests approval for a rear addition and second floor addition for an expanding family;
- b. The rear yard setback requirement is 25 feet, and the applicant is proposing 24.72 feet;
- c. The right side yard setback requirement is 6 feet, and the applicant is proposing 5.3 feet;
- d. The left side yard setback requirement is 6 feet, and the applicant is proposing 5.22 feet;
- e. That the combined side yard setback requirement is 16 feet, and the applicant is proposing 10.52 feet;
- f. That the lot coverage permitted is 27 percent, and the applicant is proposing 31 percent;
- g. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- h. There are similar-type additions in the neighborhood;
- 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 a rear addition and second floor addition at premises located at 47 Lorrie Lane, Block 71.04, Lot 32, be and the same is hereby approved and the variances for rear yard setback, right side yard setback, left side yard setback, combined side 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 GEORGE FOUKAS.**  
**Seconded by: Comr MICHAEL MOLNER.**  
**Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino.**

**MEETING OF JUNE 5, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: EUGENIUS MYSLIWIEC for premises known as: 49 Sargeant Avenue, Block 36.12, Lot 3 be and the same is hereby: GRANTED right side yard setback and front yard setback variances to build two dormers on the right side of the house.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 5, 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 Roy Noonburg moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval to build two dormers on the right side of the house at premises located at 49 Sargeant Avenue, Block 36.12, Lot 3, which premises are located in an RB1 zone; and

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

- a. The applicant requests approval to build two dormers on the right side of the house;
- b. The right side yard setback requirement is 12 feet, and the applicant is proposing 7.68 feet;
- c. The front yard setback requirement is 25 feet, and the applicant is proposing 20 feet;
- d. The purpose of the dormer is to add to the two additional bedrooms;
- e. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- f. The benefits of the application outweigh the detriments, if any; and

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

WHEREAS, the Board further finds from the testimony presented that there will be no detriment to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to build two dormers on the right side of the house at premises located at 49 Sargeant Avenue, Block 36.12, Lot 3, be and the same is hereby approved and the right side yard setback and front yard setback 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 ROY NOONBURG.**

**Seconded by: Comr SCOTT SOCHON.**

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

**MEETING OF JUNE 5, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JIHAD R. ABDELAZIZ for premises known as: 9 Abbe Lane, Block 27.12, Lot 2 be and the same is hereby: GRANTED variance for a 5-foot-high solid fence along the rear property line facing Grove Street.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 5, 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 to erect a 5-foot-high solid fence along the rear property line at premises located at 9 Abbe Lane, Block 27.12, Lot 2, which premises are located in an RA2 zone; and

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

- a. The applicant requests approval to erect a 5-foot-high solid fence where a 4-foot-high 50% open fence is permitted;
- b. The purpose of the fence is to provide safety for his child from Grove Street and to create privacy;
- c. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- d. 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 from the testimony presented that there will be no detriment to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a 5-foot-high solid fence along the rear property line facing Grove Street at premises located at 9 Abbe Lane, Block 27.12, Lot 2, be and the same is hereby approved and the variance for a 5-foot-high solid fence as aforesaid 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 LOUIS DE STEFANO.**

**Seconded by: Comr GEORGE FOUKAS.**

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

**MEETING OF JUNE 5, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: QUICKS II, LLC & QUICKS BAKERY LLC for premises known as: 1142 Route 46 West, Block 44.04, Lot 25 be and the same is hereby: GRANTED a D(3) variance and amended site plan to convert an existing billiard hall into a delicatessen containing 2,150 square feet and a wholesale bakery containing 3,380 square feet.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 5, 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 Roy Noonburg moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests a conditional use D(3) variance and amended site plan approval to convert an existing billiard hall into a delicatessen and a commercial bakery at premises located at 1142 Route 46 West, Block 44.04, Lot 25, which premises are located in a B-D zone; and

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

- a. The site in question contains a variety of uses including a billiard hall, a psychic, plumbing business and dry cleaning business;
- b. The applicant proposes to convert the billiard hall into a delicatessen containing 2,150 square feet;
- c. The applicant also proposes a wholesale bakery containing 3,380 square feet;
- d. The applicant does not meet the requirements for a conditional use of a fast food and a use variance for a wholesale bakery;
- e. The proposed use is less intense than the prior use of the billiard hall;
- f. The applicant will provide 22 parking spaces where 30 parking spaces are required;
- g. The proposal is more of a retail use than a fast food restaurant based upon the testimony of the applicant's planner;
- h. The proposal will not have an adverse effect on the adjacent properties or damage the character of the neighborhood;
- i. The applicant has satisfied the positive and negative criteria required for the grant of the use variance based upon the testimony of the applicant's planning expert;
- j. 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 since the proposal is a conditional use and is appropriate for the site; and

WHEREAS, the Board further finds from the testimony presented that the parking proposed by the applicant is adequate to satisfy the requirements that the site will help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a deli and a commercial bakery at premises located at 1142 Route 46 West, Block 44.04, Lot 25, be and the same is hereby approved and the conditional use variance, use variance, parking variance and amended site plan approval 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. The applicant provide a garbage enclosure;
- b. That the applicant submit a layout of the floor plan of the deli showing the seating and tables;
- c. That the hours of operation will be from 5 A.M. to 12 A.M. for the deli and for the bakery shall be permitted to operate seven days a week, 5 A.M. to 8 P.M.;
- d. That there will be no more than two employees in the bakery and four employees in the deli;
- e. That there will be a maximum seating in the deli of 20 seats;
- f. That the garbage pick-up will be not before 7 A.M. or after 7 P.M.

**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, or as amended.

**Resolution moved by: Comr ROY NOONBURG.**

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

**Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrnm Mark Zecchino.**

**MEETING OF JUNE 5, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: NJVM PROPERTIES, LLC for premises known as: 473 Route 46 (34 Trenton Avenue), Block 6.08, Lot 4 be and the same is hereby: GRANTED a conditional use variance for a wireless telecommunications contractor warehouse with interior overnight parking of service vehicles and interior storage of steel and electronic wiring and construction materials.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 5, 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 conditional use variance approval for a wireless communication contractor's on-site storage of steel and electronic wiring and construction materials at premises located at 473 Route 46 (34 Trenton Avenue), Block 6.08, Lot 4, which premises are located in an M-2 zone; and

WHEREAS, the Board has reviewed the reports of its engineering consultant, Neglia Engineering Associates, dated May 10, 2019, revised June 4, 2019; and its planning consultant, Gregory Associates, dated May 10, 2019;

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

- a. The subject property is situated within an M-2 zone and occupies a one-story brick masonry building used for existing plastic mold fabrication facility;
- b. The applicant proposes to utilize the premises as a wireless telecommunications contractor warehouse with interior storage of steel and electronic wiring equipment and overnight interior parking of service vehicles;
- c. The site is particularly suited for the proposed use;
- d. The site is less intense than the previous use at the premises and the applicant has indicated that the three existing silos at the site will be removed;
- e. Based upon the testimony of the applicant's expert, the deviations from the conditional use variance are minor;
- f. The improvements the applicant proposes for the site will upgrade the premises;
- g. The applicant has satisfied the positive and negative criteria required for the grant of the conditional use variance;
- 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 and the deviations from the conditional use are minor; and

WHEREAS, the Board further finds from the testimony presented that the applicant will provide 40 parking spaces and that there will be no heavy truck traffic to the site which will help promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the applicant's request for a D(3) conditional use variance at premises located at 473 Route 46 (34 Trenton Avenue), Block 6.08, Lot 4, be and the same is hereby approved and the D(3) conditional 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 APPLICANT COMPLYING WITH ALL RECOMMENDATIONS OF THE BOARD'S CONSULTING ENGINEER, NEGLIA ENGINEERING ASSOCIATES, IN ITS REPORTS DATED MAY 10, 2019, AND REVISED JUNE 4, 2019; 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, or as amended.

**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, Roy Noonburg, and Chrmm Mark Zecchino.**

**MEETING OF JUNE 5, 2019.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JM BAL REALTY LLC for premises known as: 443 Lexington Avenue, Block 8.08, Lot 14 be and the same is hereby: GRANTED front and street side yard setback for a canopy over the existing gasoline pump island.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 5, 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 Roy Noonburg moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variances as aforesaid to construct a canopy over an existing gasoline pump island at premises located at 443 Lexington Avenue, Block 8.08, Lot 14, which premises are located in a B-C zone; and

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

- a. The applicant proposes to construct a canopy over the existing gasoline pump island;
- b. The front yard setback requirement is 60 feet, and the applicant is proposing 2.33 feet;
- c. That the street side yard setback requirement is 25 feet, and the applicant is proposing 0.3 feet;
- d. The canopy will be in the front yard, and accessory structures are permitted in the rear yard;
- e. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- f. The benefits of the application outweigh the detriments, if any, in that the canopy will provide safety and protection from the elements for patrons at the site since there are many gasoline stations which have canopies; and

WHEREAS, the Board finds that there has been no testimony presented that the proposal will be detrimental to the health, safety and general welfare of the public, to the contrary, it will provide safety for patrons from the elements;

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

NOW THEREFORE, BE IT RESOLVED that the application to erect a canopy over existing gasoline pump island at premises located at 443 Lexington Avenue, Block 8.08, Lot 14, be and the same is hereby approved and the variances for front yard setback and street side yard setback 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 ROY NOONBURG.**

**Seconded by: Comr ZALMAN GURKOV.**

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