

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, June 21, 2023. Chrmn Mark Zecchino led the entire assembly in the Pledge of Allegiance to the Flag of the United States of America. Pursuant to the “Open Public Meeting Law” all notice requirements were satisfied. Chrmn Zecchino announced the time, place, and form of notice as well as advising all applications that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

PRESENT: COMRS. ALESSIA ERAMO, MAUREEN O’CONNOR, ZALMAN GURKOV, SCOTT SOCHON, MICHAEL MOLNER, VICE-CHRMN GERARD SCORZIELLO AND CHRMN MARK ZECCHINO.

ABSENT: COMR. DAVID BRAID AND GEORGE FOUKAS.

Chrmn Zecchino advised all applications that the testimony given before the Board was being tape recorded. The applicants were further advised of the right of appeal and the procedure to obtain a stenographic record of the Board.

### **REMANDED HEARING**

1. **JOHN RADER**, 817-825 Clifton Ave., Block 35.06, Lot 16 – B-C – The Use Variance; Variance; Site Plan Application was previously heard and denied by the Board in 2020. Following an appeal to the New Jersey Superior Court, Law Division, Docket No, PAS-L-309-21, the Superior Court reversed the December 2, 2020 decision of the Board and remanded the matter back to the Board for additional proceedings. The Applicant has modified the previously submitted plans to eliminate prior deviations regarding landscaping and buffering requirements for fast food restaurant uses abutting residential zones. Pursuant to the revised plans, the Applicant seeks preliminary and Final Site plan approval with a conditional use variance to remove the existing, non-conforming MOONEY AUTO REPAIR GARAGE, to enlarge the building housing the existing DUNKIN DONUTS building and add an additional food service use, two vestibule entrances to the two stores, and construct a drive-through window to the existing building. All other nonconformities are pre-existing and do not require variances. DENIED DECEMBER 2, 2020 – COURT-ORDERED REMAND.

At the request of the attorney for the applicant, this matter was continued by the Board until the July 19, 2023 meeting of the Board with no further notice required and all timing requirements tolled until July 31, 2023.

### **CONTINUED HEARINGS**

1. **522 VALLEY ESTATES LLC**, 522 Valley Road, Block 32.01, Lot 12 – Steep Slope Dist Use Variance; Variances The Applicant seeks approval to demolish the existing building and construct a new residential complex consisting of six (6) townhouse/multifamily dwelling units, along with related site improvements, including but not limited to parking, landscaping and lighting. The Applicant seeks use variance relief pursuant to N.J.S.A. 40:55D-70(d)(6) for building height greater than permitted (35 ft. permitted; 39.38 ft. proposed). The Applicant also seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) and design waiver/exception relief, including: (1) Number of stories greater than permitted (3 stories permitted; 4 stories proposed); (2) Open space consisting of less than 25 ft. and located within 10 ft. of side or rear Property lines proposed where same is not permitted; (3) Soil proposed to be excavated in excess of 30% and on the cliff face where same is not permitted; (4) Building coverage for over 30% slope area greater than permitted (0% permitted; 1.7% proposed); (5) Impervious surface (lot) coverage for 0-15% slope area greater than permitted (30% permitted; 31% proposed); (continued)

(6) Open space for over 30% slope area less than required (100% required; 98% proposed); (7) Ground sign proposed where same is not permitted; and (8) Ground sign setback from Valley Road less than required (40 ft. required; 17.4 ft. proposed). The Applicant also seeks any additional deviations, exceptions, design waivers, submission waivers, variances, use variances, conditional use variances, interpretations, de minimis exceptions to the State of New Jersey Residential Site Improvement Standards, continuations of any pre-existing non-conforming conditions, modifications of prior imposed conditions and other approvals reflected on the filed plans (as same may be further amended or revised from time to time without further notice) and as may be determined to be necessary during the review and processing of the Application.

Jason Tuvel, Esq., of Prime & Tuvel LLC, with offices at 1 University Plaza Drive, Suite 500, Hackensack, New Jersey 07601, appeared on behalf of the applicant. Present on behalf of the applicant and sworn to give testimony were the following: Afton Savitz, PE of Stonefield Engineering & Design, LLC, 92 Park Avenue, Rutherford, New Jersey 07070, a civil engineer; Matthew Seckler, of Stonefield Engineering & Design, LLC, 92 Park Avenue, Rutherford, New Jersey 07070, an engineer; and Osvaldo Martinez, OMLK Architects, 66 Willow Avenue, Hoboken, an architect.

The following objectors and interested parties were present and sworn:

Joseph Holzli, 75 Moutainside Terrace; Ines Armesto 43 J Street; Natalia Muza, 503 Valley Road; Fred Hrinck, Springfield NJ on behalf of his mother who lives on 534 Valley Road; Sunil Raval, 514 Valley Road; Vera Lazar, 22 Spencer Ave; Anne Schnackenberg, 280 Washington Street.

A hearing regarding this Application was previously commenced before the Board during its June 7, 2023 meeting and continued to the June 21, 2023 meeting. The Board is in receipt of a second set of revised Plans which further modifies the original scope of the Project and the variances requested.

Subsequent to the March 15, 2023 meeting, the Board is in receipt of: Engineering Review No. 4 from its Engineer, Neglia Engineering Associates dated July 18, 2022, revised October 14, 2022, revised March 13, 2023, and last revised June 9, 2023; Planning Review No. 4 from its Planner, Graviano & Gillis Architects & Planners LLC dated June 19, 2023; revised Environmental Impact Statement dated June 16, 2023 from the City of Clifton Environmental Commission; and Plan Review dated June 21, 2023 from Fire Prevention Bureau.

Afton Savitz, of Stonefield Engineering, testified as the applicant's engineer. Ms. Savitz offered the following exhibits:

- Exhibit A-4 – Aerial Exhibit prepared by Stonefield Engineering dated June 21, 2023
- Exhibit A-5 – Colorized Site Plan Rendering Exhibit dated June 15, 2023
- Exhibit A-6 – Colorized Steep Slopes PPlan dated May 22, 2023

Mr. Tuvel stated that the application has been revised based on the comments from the Board and the public and reduced the scale of the project significantly.

Mr Tuvel stated that townhouses are a permitted use in the Steep Slope District. The density was originally compliant, and the reduction of the sale of the Property results in complete compliance. Mr. Tuvel stated that the applicant has modified the plans to ensure that the scope of construction remains in the area of current disturbance. The revisions reduce many changes including parking requirements, open space, and impervious coverage. Mr. Tuvel stated that the applicant met with the fire official to ensure compliance and has received comments that the applicant intends to address and comply with.

Afton Savitz, of 92 Park Avenue, Rutherford, New Jersey 07070, offered testimony as a civil engineer. Ms. Savitz testified that the lime greenline on the left side of Exhibit A4 demonstrates the foot print of the area to be disturbed based on the modifications. Ms. Savitz testified that the modified plans results in a smaller grade change. Previously, the applicant was discussing the addition of structural walls and the removal of over 200 more trees. Based on these modifications, the proposed redevelopment is concentrated in the area of prior disturbance, where there is an existing structure.

Mr. Tuvel asked if the trees beyond the lime green line on the left side of Exhibit A-4 will be preserved and Ms. Savitz confirmed that they would.

Ms. Savitz reviewed Exhibit A-5. This Exhibit contains the enlarged footprint of the area to be disturbed. Ms. Savitz stated that there will be 6 townhomes fronting valley road of 4 stories. The proposed building height is 39.38 feet. Ms. Savitz stated that there are some rear slopes and the design of the property is intended to use those slopes to the benefit of the property. Mr. Tuvel asked about the setback requirements. Ms. Savitz stated that the revised design is within all requirements. Ms. Savitz testified about the drive aisle and the proposed availability of the aisle to be used as a turnaround.

Ms. Savitz testified that there will be 3 parking spaces per townhouse which is compliant. Ms. Savitz stated that there are some walls along the property which are significantly lower than previously proposed. The rear open space is intended to be level and the walls are localized in comparison to the prior plan.

Ms. Savitz testified regarding the landscaping. The applicant will provide a robust landscape plan which creates an available buffer. Ms. Savitz stated that the species and types of landscaping will be broad to be appropriate in all seasons. Ms. Savitz stated that the application is not increasing the impervious coverage. The project is not touching as much land or impacting the drainage areas.

Ms. Savitz provided testimony regarding drainage and stormwater flow. Based on the revised plans, there is a permanent swail in the rear of the property which runs parallel to Valley Road, which is designed to take water, divert it around the building, and discharge it through the pipe system. This will change the flow so that water does not run down hill into the neighboring properties. MS. Savitz stated that she does not see any negative impact to the neighboring communities as a result.

Chrmn Zecchino asked if this modification complies or considers County input. Ms. Savitz stated that it would and that the applicant will retain open communication with the County and make modifications whererequired.

Ms. Savitz testified regarding open space. She testified that there is open space in the rear and front areas. Ms. Savitz also testified regarding utilities and lighting. The purpose of the lighting design is safety while considering the reasonable impact upon the neighbors. The application provides for light level 1 and there is no request for a lighting variance.

Ms. Savitz stated that the applicant is requesting a ground sign on the western side of the driveway and the zone does not permit a ground sign. Therefore, the applicant is requesting a waiver. The sign has been setback from the property and that the planner will discuss in detail.

Ms. Savitz reviewed Exhibit A-6. She testified that the red area is where slope exceeds 30%. She stated that these pockets exist throughout the property. Relative to the entire area, those pockets are small. She testified that townhouses are a permitted use and that permitted use could not be achieved without disturbing a "red" slope area. The applicant is seeking relief for maximum impervious coverage on the "green" slope areas, and a difference of 1% between what the applicant seeks and what is the maximum allowed.

Ms. Savitz stated that the revised plans reduced the maximum building coverage, impervious coverage. The revised scope reduces the impact on the wooded area and limits the development to areas previously disturbed.

Mr. Tuvel asked Ms. Savitz if she had any concerns from an engineering perspective. Ms. Savitz said she did not.

Ms. Savitz provided testimony regarding traffic flow and the fire marshal's report. She confirmed that the applicant can comply with the Fire report.

Anthony Kurus of Neglia Engineering, the Board's engineer, asked for testimony regarding the reduction on the soil plan. He stated that the prior plan was 60,000 cubic yards and that the revised plan is definitely a smaller scale project. Mr. Kurus stated that a diversion swail will assist with water drainage.

Comr. Eramo stated that she appreciated that the revisions concentrate the development to the front of the property. She asked about the drainage and stormwater statement. Ms. Savitz stated that there is mapping in the stormwater statement. Ms. Savitz stated that the applicant is analyzing at each point to ensure that drainage matches or reduces the current condition.

Vice Chrmn Scorziello asked for additional overview of impervious coverage. Ms. Savitz stated that there was 21,675 previously and now it is reduced significantly.

Interested Party, Natalia Muza, asked about the amount of gallons the stormwater system will hold. Ms. Savitz testified that the stormwater being collected is 7000 gallons being held on the parking area and that such water is being reduced at a slower level. Ms. Savitz also stated that the rear property drainage system will work similarly and drain out to the main road piping. Ms. Muza asked if Ms. Savitz was aware that Valley Road floods currently. Mr. Tuvel stated that Ms. Savitz's role is to ensure that the development does not make the drainage worse.

Interested Party, Joseph Holzli, asked how the swail works. Ms. Savitz stated that the swail is comprised of stone that helps dissipate flow of water. Mr. Holzli asked about the maximum wall heights and Ms. Savitz stated that the max height is 4 feet. Mr. Holzli asked about tree removal. Ms. Savitz stated that trees will be removed from the front only, and all trees in the rear will not be disturbed. Mr. Tuvel clarified that there will be over 200 plantings.

Interested Party, Ines Armesto, asked about the number of variances requested. Mr. Tuvel stated that the planner will address them, but stated that there are 6 variances and 2 relate to signage. Ms. Armesto asked about explosions. Ms. Savitz stated that based on the grade change, the deepest excavation will be 10-12 feet and explosions will not be necessary. Ms. Armesto asked about the length of construction. Mr. Tuvel estimated 18 months and stated that the architect will provide information.

Interested Party, Fred Hrinck, asked about the distance between the town homes and the properties below it. Nicholas Graviano, of Graviano & Gillis, the Board's planner, recommended that the interested party be shown the exhibits presented. Mr. Tuvel agreed and showed the interested party a copy. Mr. Hrinck asked if the applicant could comply with the 40 foot requirement. Ms. Savitz stated that there was the need for turnaround area, and off street circulation. Mr. Hrinck if those trees in the back would be deed restricted. Mr. Tuvel stated that there would be no deed restriction, and that the plan would have to comply with what the Board approves. He also stated he could not answer what might happen 30 years from now. The trees will be protected for purposes of this application. Mr. Hrinck asked about the open space variance. Ms. Savitz stated that there is no relief requested for open space as it is now compliant, but that the applicant is seeking relief for disturbance of certain slope areas.

Mr. Graviano stated that the minimum open space for slopes over 30% is 100% and 90% is proposed. Mr. Graviano stated that there is no way for the applicant to meet this requirement if any development is to take place. Mr. Graviano stated that the application sets forth a site plan and that any deviation from that site plan requires that the applicant must come before the Board.

Interested Party, Sunil Raval, asked to view Exhibit A-5. He asked what is the means for someone to access the rear trees. Chrmn Zecchino stated that the Fire Department asked for rear access and that the applicant must comply with that request. Mr. Tuvel stated that the sideyards are compliant with the requirements. Mr. Graviano stated that there is 12 feet between the retaining wall and the rear of the property, which is sufficient for most vehicles. Mr. Raval asked if the applicant would consider a stipulation to provide preconstruction conditions to the residents. Mr. Tuvel stated that this may be a Building Department requirement and would not be an issue. Mr. Raval asked about acreage and Comr. Eramo's prior question. Chrmn Zecchino stated that the applicant has more than enough. Mr. Graviano stated that there was a prior issue with a discrepancy between a survey and a tax map and that has subsequently been revised.

Interested Party Vera Lazar asked about the number of swails and where they will be located as well as their size. Ms. Savitz stated that there is one swail which runs parallel to Valley Road and the buildings along the northern part of the property. The swail is approximately 150 ft long and is in the back of the townhomes. Ms. Lazar asked if it is in the wooded area. Ms. Savitz confirmed that is not.

Interested party Anne Schnackenberg asked about the location of the swail. Ms. Savitz stated that the swail is within the wall. Ms. Schnackenberg asked about how the swail works and where the water runs. Ms. Savitz provided the requested clarification. Ms. Schnackenberg asked when the County will hear this. Mr. Tuvel stated that the County is involved as the egress is on a County road, and that revised plans were submitted to the County at the same time as they were provided to the City. Ms. Schanckenberg asked if Ms. Savitz had visited the site and Ms. Savitz confirmed she had. Ms. Schnackenberg asked if there was an existing water conveyance system and Ms. Savitz stated that there is not. Ms. Schnackenberg asked about the existing well. Ms. Savitz stated that the well is in the front of the property and will be removed in accordance with all Board of Health requirements.

Ms. Schankenber asked about lighting and the nature center in Rifle Camp Park, and how will the lighting will impact. Ms. Savitz stated that it should not impact it. Ms. Schankenber asked if there was a wetlands letter done and Ms. Savitz stated that it was not done as there are no wetlands on the property. Ms. Schankenber asked about whether the applicant and the Board received the most recent comments from the Environmental Commission. Chrmn Zecchino confirmed that they had. Ms. Schankenber asked about the Municipal Response Letter. Chrmn Zecchino stated that all trees in the rear are staying. Ms. Schankenber stated that protecting those trees in perpetuity would be well advised. Ms. Schankenber asked what is the size of the area of disturbance. Ms. Savitz stated that the area is now 0.63 acres as opposed to previously being over 2 acres.

At the request of the Board, the matter was continued until July 19, 2023 with no further notice required.

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| 2.<br>Variances;<br>Use Variance | <b>833 CLIFTON AVE PARTNERS, LLC</b> , 833 Clifton Avenue, Block 35.07, Lot 1 - BC— Preliminary and final site plan approval, use variance, bulk variances and exterior LED lighting. The applicant seeks approval to construct a 3-story residential apartment building containing 26 one-bedroom units. Any and all additional variances that may be required. |
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In accordance with the June 15, 2023 correspondence from Glenn Peterson, Esq., attorney for the applicant, the applicant requests the withdrawal of the pending matter.

After a review of the testimony, Comr. Scott Sochon moved to dismiss the application without prejudice and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Zalman Gurkov. Voting for approval were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was dismissed without prejudice in the form as more fully appears at the end of these Minutes.

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

At the request of the attorney for the applicant, this matter was continued by the Board until the July 19, 2023 meeting of the Board, with no further notice required.

4. **SASAN IMANI**, 32 Lorrie Lane, Block 71.03, Lot 24 – RA3 – The  
Variances applicant is proposing a second-floor expansion and 3rd story addition  
which requires the following variances, side yard setbacks proposed at  
4.9' and 4.5' where 6' is required, combined side yard setback proposed at  
9.4' where 16' is required, proposing conversion of attic to 3rd story where  
2 stories are permitted.

Due to the absence of the Commissioners present during the original hearing of this application, this Matter was continued by the Board until the August 16, 2023 meeting of the Board.

5. **DHF REALTY LLC**, 618-630 Rte 46, Block 24.05, Lot 1 - M-2 with  
Variances; Use PDO-1 Overlay- The applicant is requesting a use variance and site plan  
Variance; Site Plan approval to store 148 unregistered new and used motor vehicles in  
connection with an offsite automobile dealership as well as on site fleet  
maintenance. Applicant is also looking for relief from the following  
variances, parking in front yard where not permitted, parking areas no  
closer than 5' side lot line where 0.5' is being proposed, and any other  
variances, waivers, exceptions, or other relief that may be necessary.

Glenn Peterson, Esq., of Peterson & Peterson, 1037 Rt. 46 E, Suite 105, Clifton, New Jersey appeared on behalf of the applicant. Present on behalf of the applicant and sworn to give testimony were the following: John L. Fette, 1137 Rt. 46 Jct. Rt. 3, Clifton, NJ 07013, the applicant, who was previously sworn; and William J. Martin, R.A., AIA, P.P., LEED AP-H, of WJM Architect, 25 Boulevard, First Floor, Westwood New Jersey 07675, a planner. There were no objectors.

A hearing regarding this Application was previously commenced before the Board during its June 7, 2023 meeting and continued to the June 21, 2023 meeting of the Board.

Mr. Peterson stated that he would present the planner for testimony this evening. Mr Martin provided background on the application. Mr. Martin stated that the property is triangular in shape and is bordered on two sides by a railroad. The remaining third side is Rte 46, which provides the only access and egress. Mr. Martin testified that the property sits 20-25 feet higher than the adjacent railroad properties and is restricted to entrance and egress only on Rte 46 as a result of grading. The use of storing cars is not a permitted use within the zone.

Mr. Martin testifies to use the property and a portion of the existing commercial building for fleet prep, maintenance, storage, and repairs. The Fette Ford Automobile brands and associated dealerships are off-site. This use proposed is to be associated with those locations. The property itself will not be used for sales, but only to prepare vehicles for the purpose of conducting sales transactions at the offsite dealerships.

Mr. Martin testified that the portion of the building that will not be occupied by the applicant will be occupied by a tenant who is currently existing. The current tenant, as well as prior tenants, also performed vehicle storage uses so the proposed use is not that different. Mr. Martin stated that there is also stormwater drainage and new landscaping proposed along Rte 46. Mr. Martin stated that there is lighting plans intended to address safety. Mr. Martin stated that the applicant requests a D1 use variance as car storage is not a permitted use. In addition the applicant requests a variance due to the additional use and the fact that the applicant is not the only occupant of the property. The applicant also requests certain C variances related to front yard parking and other ordinances.

Mr. Martin reviewed the most recent version of the Master Plan, and stated that it supports the granting of the master plan in the following ways:

1. Goal Number 1 – support and encourage the continued work and creation of jobs throughout the city. The applicant will be able to enhance the number of jobs offered
2. Goal Number 6 – encourage reuse of existing commercial and industrial structures
3. Goal Number 13 – Enhance community appearance and design – the applicant’s going to enhance the appearance of the property

Mr. Martin addressed the positive criteria. The triangular shape of the property impacts the uses available. The proposed use is consistent with other uses on the property, and the growth of the use of an existing business shows that this site is particularly suitable for this application. Based on the site and how it is particularly suited, the applicant has satisfied the special reasons standard as required.

Mr. Martin addressed the negative criteria. The applicant improves site lighting and it will not spill over onto other neighboring properties. The applicant’s stormwater management proposal will improve the neighboring areas and will not impact the neighboring properties in a substantially negative way. There will be no substantial detriment to neighboring property values or traffic, satisfying the negative criteria. Mr. Martin stated that the purposes of the NJMLUL is furthered and there is no substantial detriment to the public good.

Nicholas Graviano, of Graviano & Gillis stated that he had no questions or comments.

Mr. Peterson stated that the Board’s planners report addressed the need for additional vegetation and the applicant would be willing to stipulate to such addition.

Mr. Peterson offered a closing statement and stated that there is no change to the current use of the property or a change in the footprint

As a condition of approving the property, the Board instituted the following stipulations: ten more trees will be planted in the back, and designated parking spots for employees in the front of the property which will be marked

After a review of the testimony, Comr. Michael Molner moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Gerard Scorziello. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O’Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

### NEW HEARINGS

1. **KRISTY & ORLANDO MELENDEZ**, 2 Orange Street, Block 91.13, Lot 12 – RA3 – The applicant is requesting to keep already existing 5’ solid fence along Princeton Place within 10’ of the street side yard property line where 4’ 50% open is required.

The applicant, residing at 2 Orange Street, Clifton, New Jersey was present and sworn. There were no objectors.

The applicant testified that he is applying for a variance for his fence. The fence is already existing and is a 5 foot closed fence which is 10 feet away from the curb. The fence is currently on the property line and needs to be off the property line. The applicant stated that they have signatures from their neighbors and pictures of the fence.

The Applicant offered the following exhibits:

- Exhibit A-1 – Letter to Neighbors with signatures
- Exhibit A-2 – 7 Photos of fence

The applicant further stated that they would have to move the fence back 10 feet or have the fence be open. The applicant is concerned about the open fence due to the size of and noise caused by their large dog. The applicant stated that moving the fence back would cut into the size of their back yard significantly.

After a review of the testimony, Comr. Michael Molner moved to approve the application on the grounds that the applicant is penalized due to the location of their property on a corner lot, and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Maureen O'Connor. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

2. **GEZIM NEZIRAJ & VALBONA SECI**, 38 Speer Ave., Block 43.06, Lot 20 - RB1 – The applicant is proposing to construct a deck on the side of the home which is an expansion of a nonconforming 3 family use.

The applicant, residing at 38 Speer Ave, Clifton, New Jersey was present and sworn. An interested party, Stephen M Horvath, 42-44 Speer Avenue, also appeared before the Board.

The applicant testified that they purchased the home two years ago and that the property is on a corner. The home does not have a back yard exit. The applicant wants to construct an exit that makes accessing the back yard easily. The deck would provide that access, and would also make egress easier by the applicant's mother who is older and has limited mobility. The zoning office raised the issue of the size and height of the deck.

Comr. Molner asked about the existence of stairs instead of a ramp. The applicant stated that the deck would provide some access outside for fresh air rather than for purposes of leaving the home. Comr. Molner stated that the deck is not going to change how the mother will access the back yard. The applicant stated they could consider a ramp, but they were just looking to have the mother access fresh air outside.

The applicant stated that the deck would also be for family enjoyment and improve their quality of life.

Mr. Horvath stated that he is the next door neighbor. He asked about the setbacks and how the level of the deck will be positioned at the height of the door. He also asked if the deck comes to the next door fence. The applicant stated that it is set back from the fence between 4-6'. Mr. Horvath asked if the deck is covered. The applicant stated that it would be open. Mr. Horvath stated he had no objections and was just curious.

Comr. Sochon asked if this application would be before the Board if this was not an expansion of a nonconforming use. Zoning Office Bolcato stated that the application has a setback variance component as well.

After a review of the testimony, Comr. Zalman Gurkov moved to approve the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice Chrmn Gerard Scorziello. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

3. **ANGEL VALDEZ**, 57 (61) Speer Ave., Block 43.15, Lot 6 – RA3 - The applicant is proposing rear addition to existing home which requires the following variance; 10' separation between home and garage where 8' being proposed.

The applicant, residing at 57 (61) Speer Ave, Clifton, New Jersey was present and sworn. Also appearing on behalf of the applicant was Tanya Puello, living at the same address. There were no objectors.



The applicant testified that they would like to create an addition to the home. The addition reduces the distance between the home and the garage below what is required by 2 feet.

Chrmn. Zecchino asked if the addition is going over the existing screened porch. The applicant confirmed that this is true and would be the same height of the rest of the house.

The applicant stated that the addition was necessary due to the size of their growing family.

Comr. Sochon asked about the attic space and whether it will be finished into a playroom or other living space. The applicant said that it would.

Comr. Eramo asked if the 2 feet reduction in space is the only variance requested. Zoning Officer Bolcato confirmed this is correct.

Comr. Molner asked about the third floor purpose. The applicant stated that he will use living space. Zoning Officer Bolcato stated that the third floor cannot be living space only storage. The applicant stated that the architect advised that it would be for HVAC unit.

Comr. Molner asked if there is a finished 3<sup>rd</sup> floor on the existing home. The applicant stated it is not finished. Comr. molner stated 3<sup>rd</sup> floor space cannot be used for living space.

Comr. Sochon asked about the sky lights. Chrmn Zecchino stated that the sky lights creates the possibility of living space. The applicant stated that the plans could be revised easily.

As a condition of approving the property, the Board instituted the following stipulations: The skylights shall be removed from the plans and the attic shall remain unfinished.

After a review of the testimony, Comr. Scott Sochon moved to approve the application with the noted stipulations and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Maureen O'Connor. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

4. **SOMERSET PLACE, LLC**, 15 Somerset Pl., Block 56.07, Lot 11.01 –  
Variances; Use M-2 – The applicant proposes to add a level to the existing two-story  
variance masonry industrial-type building. The applicant also proposes an  
expansion of the existing office / warehouse use typically used by  
contractors in the various trades, together with a small, on-site parking  
lot, as required by Ordinance. The proposed uses are permitted  
conditionally within the Zone. Unfortunately, due to the size of the  
property, there are practical difficulties with regard to constructing the  
building in compliance with the setback requirements. As a result, the  
following bulk variances for the expanded building are requested,  
including but not limited to: 1. Rear yard setback-20 ft is required, 5.7 ft  
is existing, and 1 foot is proposed. 2. Side yard setback (west/left)-15 feet  
required, 11.8 ft existing, and 11.8 ft proposed 3. Side yard setback  
(east/right)-15 feet required, 3.6 ft existing and 3.6 ft proposed. The  
existing and proposed use of office, warehouse, storage, parking is  
conditionally permitted in the zone. The required conditions are as  
follows: 1. Frontage of principal access to such use shall be located on a  
collector or arterial street not less than 60 ft. in width, except if the  
Planning Board shall allow such use to be permitted on a collector or  
arterial street less the 60ft. in width provided that there was a finding that  
such street can reasonably carry the expected truck traffic and location of  
such use will not adversely affect adjacent properties and use of all the  
other requirements of the traffic. 2. The frontage of the lot on which such  
usage proposed could be located shall not be within a half-mile of a public  
or parochial school, or public park, or playground which abuts the same  
street as the proposed truck terminal, transportation or warehouse fronts  
except when it abuts State Highways number 3 and 46 (continued)

measured from the center line of the street. 3. Use shall not be located on a lot any part of which is within a 100 ft. of residential district boundaries. 4. Use shall meet all area height and bulk requirements for industrial plans in the M-2 District and shall meet the off-street parking, loading and unloading and buffer requirements of this traffic as it pertains to industrial plans in the M-2 District. The proposed expanded use does not meet any of these conditions and as a result a conditional use variance is requested pursuant to NJS 40:55D-70d.(3). In addition, the applicant requests any other variance, waiver, or design exception as may be deemed necessary by the Zoning Board of Adjustment of the City of Clifton in order to secure approval of all plans, plats, and applications submitted.

Steven Schepis, Esq., of the Law Office of Steven C Schepis, LLC, 339 Changebridge Rd., Suite 3, Pine Brook, New Jersey appeared on behalf of the applicant. Also present and sworn were: Michael Bet, 201 E Ridgewood Ave, Suite 3, Ridgewood, an architect; John McDonough, 101 Gibraltar Drive, Suite 1A, a planner. There were no objectors.

Mr. Schepis offered an opening statement. The existing property houses an electrical and HVAC contractor. The building is 2 stories, and the ordinance permits 3 stories. The building requires an egress on the upper floors, which necessitates the addition of stairs.

Mr. Bet offered architectural testimony. The existing building is a 2 story building and the application seeks the addition of a 3<sup>rd</sup> floor for storage. Currently, there are 4 unmarked parking spots and the revision would include 5 exterior and 2 interior spaces, as well as handicap parking. The applicant will also complete certain structural modifications for both aesthetic needs as well as efficiency.

Mr. Schepis reviewed certain portions of the applications with Mr. Bet and asked about the neighboring property. Mr. Bet provided testimony that the neighboring property is an industrial use as well.

Mr. Bet stated that presently there is existing nonconformities regarding setbacks in the side yard and rear yard. New construction would be within the footprint for sideyard setbacks but would expand the nonconformity in the rear. The addition is within the existing footprint but for the back. The exterior of the property will also have a metal skin.

Mr. Bet provided testimony regarding the neighboring property uses, which include commercial and manufacturing uses.

Mr. McDonough offered planning testimony. The use is a permitted conditional use, subject to warehouse use conditions. The applicant complies with 2 of the 4 conditions – separations from parks and schools on the same street, and the use is 100 ft away from any other home. The applicant is within the radius of schools and parks, but that those locations are not on the same street. Mr. McDonough also stated that the nearest home is well beyond 100 ft of the property.

Mr. McDonough testified that the conditional use will not increase the volume of traffic on the road. Mr. McDonough stated that there are existing number of nonconformities which will be maintained and only expanded in the rear of the property. The applicant specifically focused on the conditions provided in the master plan and ensuring that the application is not substantially averse.

This use will improve a local business, and will not negatively impact the neighborhood. Mr. McDonough stated that there is no substantial detriment. There is no height relief requested and a 3 story building across the street. Mr. McDonough offered testimony regarding the positive and negative criteria.

Mr. Schepis offered a closing statement and that this is a significantly desirable use, as well as a use that meets a need of the community. This will allow people to rent commercial space locally to provide services to the community.

Mr. Graviano recommended that the applicant stipulate to modifying the rear façade to breakup the appearance. Mr. Schepis agreed to the stipulation.

As a condition of approving the property, the Board instituted the following stipulations: The applicant will comply with the recommendations of the Board's Planner regarding modifications to the rear façade to ensure a more aesthetic appearance.

After a review of the testimony, Comr. Zalman Gurkov moved to approve the application on the grounds and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Comr. Maureen O'Connor. Voting in favor of the Motion to approve the application were Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried and the application was approved in the form as more fully appears at the end of these Minutes.

### **RESOLUTIONS**

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

1. Upon motion made by Vice Chrmn Gerard Scorziello, seconded by Comr. Scott Sochon, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of KEVIN & KAREN URENA for a request to keep already existing 4' solid fence along MacArthur Drive and 5' solid fence where 4; 50% open is required for premises located at 30 MacArthur Drive, Block 63.01, Lot 1, was adopted.
2. Upon motion made by Vice Chrmn Gerard Scorziello, seconded by Comr. Michael Molner, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Michael Molner, George Foukas, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution DENYING the application of NANCY ASMAD for a request to keep already constructed 6'solid fence in rear yard where 5' solid and 1' lattice is permitted and along a portion of the right side of the home where 5' solid is permitted for premises located at 146 6th Avenue, Block 9.05, Lot 2, was adopted.
3. Upon motion made by Comr. Scott Sochon, seconded by Comr. Maureen O'Connor, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of ATEF HOUWAYEK for a variance for a rear yard set back to construct a rear addition for premises located at 678 Bloomfield Ave, Block 50.05, Lot 44, was adopted.
4. Upon motion made by Vice Chrmn Gerard Scorziello, seconded by Comr. Scott Sochon, and affirmed by Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino, the Resolution GRANTING the application of CLIFTON ELKS LODGE 1569 for a front yard setback variance in order to keep an already constructed ADA accessible metal ramp for premises located at 775 Clifton Avenue, Block 30.09, Lot 14 & 15, was adopted.

Thereafter, upon motion made by Comr. Scott Sochon, seconded by Vice Chrmn Gerard Scorziello the Minutes of the June 7, 2023 regular meeting were adopted with the unanimous approval of the entire Board.

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

Respectfully submitted,

JACLYN M. MORGESE, ESQ.  
COUNSEL SECRETARY

**MEETING OF JUNE 21, 2023.**

**RESOLVED** by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **833 CLIFTON AVE PARTNERS, LLC**  
for premises known as: **312 Clifton Avenue, Block 12.05, Lot 22**  
be and the same is hereby: **DISMISSED WITHOUT PREJUDICE** at the request of the applicant.

THIS MATTER, coming on for hearing before the Board for testimony at its meeting of June 21, 2023; and

WHEREAS, the Applicant has requested the dismissal of this application without prejudice; and

BE AND THE SAME is here by dismissed without prejudice.

**Resolution moved by:** Comr. SCOTT SOCHON  
**Seconded by:** Comr. ZALMAN GURKOV  
**Affirmed by:** Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino

**MEETING OF JUNE 21, 2023.**

**RESOLVED** by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **DHF REALTY LLC**  
for premises known as: **618-630 Rte 46, Block 24.05, Lot 1**  
be and the same is hereby: **GRANTED** a request for bulk variances, use variance, and site plan approval to store 148 new and used motor vehicles in connection with an offsite automobile dealership as well as onsite fleet maintenance.

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 21, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests bulk variances, use variance, and site plan approval to store 148 new and used motor vehicles in connection with an offsite automobile dealership as well as onsite fleet maintenance; and

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

a. The applicant owns and operates car dealerships throughout the City and the surrounding areas ; and

b. To support the operation of the dealership business, the applicant acquired the Property at issue and seeks a use variance, bulk variances, and site plan approval for the storage of 148 new and used vehicles on the property; and

c. The proposed use includes car storage for fleet prep, maintenance, storage, and repairs in order to support the off-site dealership;

d. The applicant seeks a D1 use variance as car storage is not a permitted use within the zone; and

e. The applicant's experts offered testimony to establish the positive criteria required for the D1 use variance, including the existence of special reasons for the grant of the variance as the site is particularly suited for the use of this nature; and

f. The applicant's experts provided testimony that the applicant is not the only tenant of the property and that the use proposed by the tenant is consistent with the industrial and commercial uses of the other tenants; and

g. The applicant's experts also testified that the site is triangular shaped, and bordered on two sides by railroads and on the third side by Rt. 46; and

h. The applicant's experts also provided testimony regarding the negative criteria including proof that the use will not substantially impair the intent and purpose of the zone plan, and its not inconsistent with the purpose of the master plan; and

i. The applicant's engineer provided testimony regarding employee parking and the planting of trees and vegetation on the Property; and

j. The applicant has stipulated that:

1. Additional trees will be planted in the rear of the property; and

2. The applicant provide for designated employee parking spots in the front of the property which will be marked; and

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

1. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for bulk variances, use variance, and site plan approval to store 148 new and used motor vehicles in connection with an offsite automobile dealership as well as onsite fleet maintenance for premises located at 618-630 Rte 46, Block 24.05, Lot 1, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Graviano & Gillis Architects & Planners, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.
16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for the same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant, or applicant's witnesses, not specifically contained herein, are incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.

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

**Resolution moved by:**  
**Seconded by:**  
**Affirmed by:**

**Comr. MICHAEL MOLNER**  
**Comr. MAUREEN O'CONNOR**  
**Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov,**  
**Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello**  
**and Chrmn Mark Zecchino.**

**MEETING OF JUNE 21, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: KRISTY & ORLANDO MELENDEZ for premises known as: 2 Orange Street, Block 91.13, Lot 12 be and the same is hereby: GRANTED a variance to retain an already existing 5' solid fence where 4' 50% open is required.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 21, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests a variance to retain an already existing 5' solid fence where 4' 50% open is required; and

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

- a. The applicant testified that he is seeking a variance for an already constructed 5 foot closed fence; and
- b. Due to the position of the fence and its relationship to the curb, the City requires that the fence be a maximum of 4' and 50% open; and
- c. The applicant has two vocal and large dogs and installed the fence to reduce noise as well as for safety reasons;
- d. The applicant testified that it would be a hardship either to move the fence or remove and replace the fence; and
- e. The applicant has shown sufficient hardship to justify the grant of the variance 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 that there has been no testimony presented to show that the proposed addition will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a variance to retain an already existing 5' solid fence where 4' 50% open is required for premises located at 2 Orange Street, Block 91.13, Lot 12, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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



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

**Resolution moved by:**  
**Seconded by:**  
**Affirmed by:**

**Comr. MICHAEL MOLNER**  
**Comr. MAUREEN O'CONNOR**  
**Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov,**  
**Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello**  
**and Chrmn Mark Zecchino.**

**MEETING OF JUNE 21, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: GEZIM NEZIRAJ & VALBONA SECI for premises known as: 38 Speer Ave., Block 43.06, Lot 20 be and the same is hereby: GRANTED a variance permitting construction of a side yard deck which expands a nonconforming 3 family use.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 21, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests a variance permitting construction of a deck; and

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

- a. The applicants testified that they reside in the home with the applicant's aging mother who has limited mobility; and
- b. The applicant testified that access to the back yard is somewhat limited and difficult, and requires egress via stairs; and
- c. The applicant seeks to construct a rear deck in order to provide the applicant's mother with a space to access the outdoors and fresh air without having to navigate stairs;
- d. The applicant stated that the deck would also be for family enjoyment and improve their quality of life; and
- e. The applicant has shown sufficient hardship to justify the grant of the variance 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 that there has been no testimony presented to show that the proposed addition will be detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for a variance permitting construction of a side yard deck which expands a nonconforming 3 family use for premises located at 38 Speer Ave., Block 43.06, Lot 20, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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

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

**Resolution moved by:** Comr. ZALMAN GURKOV  
**Seconded by:** Vice Chrmn GERARD SCORZIELLO  
**Affirmed by:** Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino.

**MEETING OF JUNE 21, 2023.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ANGEL VALDEZ for premises known as: 57 (61) Speer Ave., Block 43.15, Lot 6 be and the same is hereby: GRANTED a variance to construct a rear addition to existing home which provides for 8' separation between home and garage where 10' is required.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 21, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant testified that they would like to create an addition to the home; and

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

- a. The applicants testified the proposed addition reduces the distance between the home and the garage below what is required by 2 feet; and
- b. The applicant testified the addition is going over the existing screen porch; and
- c. The applicant believes that the addition is necessary due to the growing size of their family; and
- d. The applicant testified that the additional story will be used for storage space only ; and
- e. The applicant has stipulated that:
  1. The skylights shall be removed from the plans and the attic shall remain unfinished; and
- f. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- g. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a variance to construct a rear addition to existing home which provides for 8' separation between home and garage where 10' is required for premises located at 57 (61) Speer Ave., Block 43.15, Lot 6, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.

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

**Resolution moved by:** Comr. SCOTT SOCHON  
**Seconded by:** Comr. MAUREEN O'CONNOR  
**Affirmed by:** Comrs. Alessia Eramo, Maureen O'Connor, Zalman Gurkov, Scott Sochon, Michael Molner, Vice Chrmn Gerard Scorziello and Chrmn Mark Zecchino.

**MEETING OF JUNE 21, 2023.**

**RESOLVED** by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.**, that the application of: **SOMERSET PLACE, LLC**  
for premises known as: **15 Somerset Place, Block 56.01, Lot 11.01**  
be and the same is hereby: **GRANTED a conditional use variance and bulk variances in order to add a level to the existing two story building and expand offices and warehouse use.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on June 21, 2023. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests a conditional use variance and bulk variances in order to add a level to the existing two story building and expand offices and warehouse use; and

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

a. The applicant seeks to expand the existing building in order to make more space available for industrial business tenants; and

b. The applicant's experts testified that the existing building is 2 stories and a 3<sup>rd</sup> story is requested for the purposes of storage; and

c. The proposed construction would requires the following variances for the new 3<sup>rd</sup> floor:

1. Side yard setbacks 15 feet required, 11.8 feet existing and proposed on the right side and 3.6 feet existing and proposed on the left side.

2. The rear yard required 20 feet, 5.7feet existing and 1 foot proposed.; and

d. The proposed use is a permitted conditional use and the applicant complies with two out of the 4 required conditions ; and

e. The applicant requests a conditional use variance for warehouse use in the M-2 zone as the following conditions required by Ordinance are not met:

1. Frontage of principal access to such use shall be located on a collector or arterial street not less than 60 ft. in width, except if the Planning Board shall allow such use to be permitted on a collector or arterial street less the 60ft. in width provided that there was a finding that such street can reasonably carry the expected truck traffic and location of such use will not adversely affect adjacent properties and use of all the other requirements of the traffic.

2. Use shall meet all area height and bulk requirements for industrial plans in the M-2 District and shall meet the off-street parking, loading and unloading and buffer requirements of this traffic as it pertains to industrial plans in the M-2 District.

f. The applicant's experts provided testimony that deviation from the conditions does not affect suitability of the site for the proposed use, and that there are similar uses already existing in the neighborhood; and

g. The applicant's experts provided testimony that there will not be substantial detriment to the public good, as there will not be an increase of volume of traffic and that the application is not averse to the master plan; and

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

- i. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a conditional use variance and bulk variances in order to add a level to the existing two story building and expand offices and warehouse use for premises located 15 Somerset Place, Block 56.01, Lot 11.01, is hereby approved and the variances are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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