

Minutes of a virtual meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, July 15, 2020. Acting-Chrmn Gerard Scorziello 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. Acting-Chrmn Scorziello 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, AND ACTING-CHRMN GERARD SCORZIELLO.

ABSENT: COMRS DANIEL TRENK, GEORGE FOUKAS, ROY NOONBURG, AND CHRMN MARK ZECCHINO.

Acting-Chrmn Scorziello 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 June 17, 2020, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARINGS – VIRTUAL MEETING

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

This matter was continued by the Board until the August 19, 2020, meeting of the Board at the request of the attorney for the objectors.

2. RAYMOND NOWICKI, 1037 Route 46,
Use Suite G5, Block 39, Lot 21 Qualifier:
Variance CCG05 – B-D – Applicant proposes to
add a small (320 square foot) coffee bar
within the office building to serve the
employees of the building. The use would
be accessory to office use. The coffee bar
is not intended for the general public. A
conditional use variance is required for the use
(takeout restaurant) as the use does not
meet the conditional use requirements.
A site plan waiver is requested as there are
no proposed changes to the exterior of
the building.

Raymond Nowicki, residing at 104 Joanne Terrace, Garfield, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he proposes to add a small coffee bar within the offices located at 1037 Route 46, Suite G5; that the purpose of the small coffee bar is to serve the employees of the building; that the use is an accessory to an office use; that a conditional use variance is required; that a site plan waiver is required since there are no proposed changes to the exterior of the building; that the intended use is for the Notchview Park employees and not the general public.

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

1. That there be no cooking at the premises;
2. That the hours of operation will be from 8 A.M. to 3 P.M.;
3. That there will be no more than six (6) seats at the coffee bar.

The motion was seconded by Comr Scott Sochon. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, and Acting-Chrmn Gerard Scorziello. By a five 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.

NEW HEARINGS

1. **LORIANN BURKE, 60 Sperling Road,**
Variance **Block 38.03, Lot 7 – RA3 – Applicant**
proposes to install a six foot (6') high
solid fence along the rear lot against
Van Houten Avenue where a four foot
(4') high, 50% open fence is permitted.

The applicant, residing at 60 Sperling Road, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that she proposes to install a 6-foot-high solid fence along the rear lot line against Van Houten Avenue where a 4-foot-high, 50% open fence is permitted; that the purpose of the fence is to protect against outside noise and privacy; that she has three children, and the fence will allow her children to play in the privacy of the rear yard; that the proposed fence will also reduce the noise from the daily buses, trucks, and traffic.

Comr Louis DeStefano suggested that the applicant consider a 5-foot-high solid fence with a 1-foot lattice for a total of 6 feet. The applicant expressed her consent to this proposal.

Thereupon, Comr Louis DeStefano moved to grant the application for a 5-foot-high solid fence with a 1-foot lattice for a total of 6 feet and instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, and Acting-Chrmn Gerard Scorziello. By a five 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. **MOHAMMED AND WAFI OTHMAN,**
Use **825 Allwood Road, Block 66.01,**
Variance; **Lots 22 & 24 – RA3 – Site plan and**
Variances **use variance pursuant to N.J.S.A. 40:**
55D-70(d); Specifically, to demolish
the existing office building on lot 22 and
replace it with a two-story multi-family
dwelling containing six residential
apartments. As part of the application,

the small storage building on lot 24 would be converted to a parking lot containing 12 spaces for use by occupants of the dwelling. Pursuant to N.J.S.A. 40:55D-70(c), application for several bulk variances including variances for lot width, lot depth and rear setback for lot 22, and any other variances that may be necessary. Application also involves a request for a reverse subdivision approval to merge lots 22 and 24 onto one lot.

Douglas J. Kinz, Esq., with offices at 365 Lafayette Avenue, Hawthorne, New Jersey, appeared on behalf of the applicants.

Acting-Chrmn Gerard Scorziello advised the applicant that there are five commissioners present to hear this matter; that a use variance is requested which will require five votes; that the applicant has the option of continuing the matter until such time as a full Board is present, or the Board is prepare the hear testimony this evening.

After reviewing the matter with his client, Mr. Kinz requested that the matter be continued until the August 19, 2020, meeting of the Board. Thereupon, the matter was accordingly continued to August 19, 2020.

RESOLUTIONS

Acting-Chrmn Scorziello stated that the Board would act upon the Resolutions set forth on the Agenda:

1. Upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, and Vice-Chrmn Gerard Scorziello, the Resolution GRANTING the application of EVELYN MENDEZ for rear yard, right side yard, and combined side yard variances to erect a rear addition and deck to create a wheelchair accessible area within the home at 95 Haussler Terrace, Block 75.05, Lot 3, was adopted. RA1

2. Upon motion made by Comr Louis DeStefano, seconded by Comr Scott Sochon, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, and Vice-Chrmn Gerard Scorziello, the Resolution GRANTING the application of ORLANDO FELICIANO for rear yard, right side yard, lot coverage, and distance from deck to swimming pool variances to build a deck from the house to the above-ground swimming pool at 18 Myron Street, Block 59.08, Lot 29, was adopted. RB1

3. Upon motion made by Comr Michael Molner, seconded by Comr Scott Sochon, and affirmed by Comrs Scott Sochon, Michael Molner, Louis DeStefano, and Vice-Chrmn Gerard Scorziello, the Resolution GRANTING the application of ELAZAR GUTTMAN for rear yard setback and rear yard lot line variances to erect an attached garage addition and build a second story addition over the previously approved single story on the right side and over the entire existing home at 41 Woodward Avenue, Block 50.11, Lot 25, was adopted. RA2

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF JULY 15, 2020.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: RAYMOND NOWICKI for premises known as: 1037 Route 46, Suite G5, Block 39.04, Lot 21, Qualifier CCG05 be and the same is hereby: GRANTED a conditional use variance for a 320 square foot coffee bar within the office building.

Testimony concerning the aforesaid application was taken by the Board at its virtual meeting on July 15, 2020. Said testimony along with the application and plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Louis DeStefano moved to approve the application on the basis of the following Resolution:

WHEREAS, the applicant proposes to add a small 320 square foot coffee bar within the office building at premises located at 1037 Route 46, Suite G5, Block 39.04, Lot 21, Qualifier CCG05, which premises are located in a B-D zone; and

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

- a. The applicant proposes a coffee bar within the office building to serve the employees of the building;
- b. A conditional use variance is required;
- c. The use is accessory to the office use;
- d. The applicant has satisfied the positive and negative criteria required for the grant of the conditional use variance;
- e. The benefits of the application outweigh the detriments, if any; and

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

WHEREAS, the Board further finds that the purpose of the coffee bar is to serve the employees of the building and not the general public, which will help promote the health, safety, and general welfare of the area;

NOW THEREFORE, BE IT RESOLVED that the application for a small 320 square foot coffee bar at premises located at 1037 Route 46, Suite G5, Block 39.04, Lot 21, be and the same is hereby approved and the conditional use variance and site plan waiver 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. That there be no cooking at the premises;
2. That the hours of operation will be from 8 A.M. to 3 P.M.;
3. That there will be no more than six (6) seats at the coffee bar.

and further subject to the following:

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

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

Resolution moved by: Comr LOUIS DE STEFANO.
Seconded by: Comr SCOTT SOCHON.
Affirmed by: Comrs ZALMAN GURKOV, SCOTT SOCHON,
MICHAEL MOLNER, LOUIS DE STEFANO, AND ACTING CHRMN
GERARD SCORZIELLO.

MEETING OF JULY 15, 2020.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: LORIANN BURKE for premises known as: 60 SPERLING ROAD, BLOCK 38.03, LOT 7 be and the same is hereby: GRANTED a 5-foot-high solid fence with a 1-foot lattice for a total of 6 feet along the rear lot line of the subject premises along Van Houten Avenue.

Testimony concerning the aforesaid application was taken by the Board at its virtual meeting on July 15, 2020. Said testimony along with the application and plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Louis DeStefano moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval to install a 6-foot-high solid fence along the rear lot line against Van Houten Avenue where a 4-foot-high 50% open fence is permitted at premises located at 60 Sperling Road, Block 38.03, Lot 7, which premises are located in an RA3 zone; and

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

- a. The applicant proposes to install a 6-foot-high solid fence;
- b. A 4-foot-high 50% open fence is permitted;
- c. The purpose of the fence is for safety for her children and privacy;
- d. The applicant has shown sufficient hardship to justify the grant of the variance requested;
- e. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the applicant has agreed to a 5-foot-high solid fence with a 1-foot lattice for a total of 6 feet which will be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that the proposed fence will help promote the health, safety, and general welfare of the applicant by reducing noise from trucks and traffic and providing a safe play environment for her children;

NOW THEREFORE, BE IT RESOLVED that the application to erect a 5-foot-high solid fence with a 1-foot high lattice, for a total of 6 feet, at premises located at 60 Sperling Road, Block 38.03, Lot 7, be and the same is hereby approved and the variance be and the same is hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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

Official, City Board of Health, City Zoning Officer, and any other governmental authority.

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

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

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

17. All utilities to be constructed underground.

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

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

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

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

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

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

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

Resolution moved by: Comr LOUIS DE STEFANO.

Seconded by: Comr MICHAEL MOLNER.

**Affirmed by: Comrs ZALMAN GURKOV, SCOTT SOCHON,
MICHAEL MOLNER, LOUIS DE STEFANO, AND ACTING CHRMN
GERARD SCORZIELLO.**