

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held on Wednesday, July 20, 2022. Chrmn Mark Zecchino led the entire assembly in the Pledge of Allegiance to the Flag of the United States of America. Pursuant to the "Open Public Meeting Law" all notice requirements were satisfied. Chrmn Zecchino announced the time, place, and form of notice as well as advising all applicants that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

PRESENT: COMRS GEORGE SILVA, ZALMAN GURKOV, SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMR URI JASKIEL.

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

Upon motion made by Comr George Foukas, seconded by Comr Scott Sochon, the Minutes of the June 15, 2022, regular meeting were adopted with the unanimous approval of the entire Board.

Upon motion made by Comr Scott Sochon, seconded by Comr Michael Molner, the Minutes of the June 22, 2022, special meeting were adopted with the unanimous approval of the entire Board.

### **CONTINUED HEARINGS**

1.  
Prelim. &  
Final Major  
Site Plan

**BOTANY VILLAGE PROPERTY LLC,**  
254 Dayton Avenue, Block 4.18, Lot 21  
--PD1 – For preliminary and final major  
site plan approval, use variance, bulk  
variance and design waiver/exception relief.  
The property is located in a PD-1 Zoning  
District. The Applicant seeks approval to  
demolish the existing building on the Property  
and construct a new three- (3) story mixed-use  
building consisting of four (4) residential  
dwelling units above ground floor commercial  
(restaurant/tavern) space, along with related  
site improvements.

The Applicant seeks use variance  
relief pursuant to N.J.S.A. 40:55D-70(d)(1) for a  
non-permitted use, as residential use is not  
permitted in the PD-1 Zoning District. The  
Applicant further seeks bulk variance relief  
Pursuant to N.J.S.A. 40:55D-70(c), including:  
(1) minimum lot area less than required (2,500  
sf. required; 2,279 sf. existing non-conformity  
to remain unchanged);  
(2) Minimum lot depth less than required (100 ft.  
required; 90 ft. existing non-conformity to  
remain unchanged);

- (3) Building height greater than permitted (30 ft. permitted; 31.5 ft. proposed);
- (4) Number of stories greater than permitted (2 stories permitted, 3 stories proposed); and
- (5) Exterior lighting fixtures not proposed to be high-pressure sodium vapor where same is required.

To the extent necessary, the Applicant seeks a parking variance for providing less than required number of parking spaces and seeks conditional use approval or conditional use variance for not providing parking on the same lot as the principal use/principal structure.

The Applicant also seeks any additional deviations, exceptions, design waivers, submission waivers, variances, use variances, conditional use variances, interpretations, 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 R. Tuvel, Esq., with offices at One University Plaza Drive, Hackensack, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Michael E. Dipple, P.E. of L2A Land Design, LLC, with offices at 66 Grand Avenue, Englewood, New Jersey, an engineer; Afshan A. Vandal, AIA, of AAV Con, 239 New Road, Parsippany, New Jersey, an architect; and Matthew J. Seckler, PE, of Stonefield Engineering, 92 Park Avenue, Rutherford, New Jersey, traffic expert. Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of objectors Mr. and Mrs. Vidal. Present and sworn were the following objectors: Marco and Nestor Tacconi, 10 Center Street; Miguel and Gloria Vidal, 250 Dayton Avenue; Louis Rossi, 574 Mt. Prospect Avenue; Anna Rossi, 138 Sycamore Road; Roger Rossi, 11 Wayne Place; Joe Waninger, CHBD, Executive Director, 604 Manor Road, Cinnaminson, New Jersey; and Josephine Fabi, 215 Parker Avenue, all of the City of Clifton, New Jersey, except where noted.

Comr George Silva recused himself from participating in the matter.

The Board is in receipt of reports from its engineer, Neglia Engineering, dated September 28, 2021, revised July 15, 2022; and from its planner, Graviano & Gillis, dated July 8, 2022.

Mr. Tuvel gave a brief overview of the application and stated that the applicant requires preliminary and final site plan approval, use variance, and bulk variances which are pre-existing, non-conforming conditions; that previously there was a mixed use building with tavern on bottom and 3 ½ stories with 3 units and 40 feet in height; that the building collapsed during renovation; that the lot is currently vacant; that the proposed three-story building is lower than the previous building; that 4 units are proposed with a restaurant/tavern on the lower floor; that this application was previously for 4 stories with 6 residential units and was modified based on comments from the Board's professionals to 3 stories with 4 units.

Mr. Tuvel had marked into evidence as “A1” the site plan dated June 6, 2022.

Mr. Dipple testified as an engineer and stated that the property is located on Dayton Avenue within the PD-1 planned development zone, on the east side of Dayton Avenue; that the applicant requests approval for a three story building along the front setback line; he testified as to site improvements to the sidewalk, utilities, landscaping, drainage, waste management, and recycling; that lot coverage is under what is permitted; that the applicant is requesting a rear yard setback variance not included in the application; that approval is requested for three stories and a height of 31.5 feet; that the lot area and lot depth are pre-existing, non-conforming and do not exacerbate the conditions of the site; that the restaurant use has a grease trap; that the applicant is willing to go with high-pressure sodium lights in order to eliminate that variance; that there are no negative impacts; that the previous structure was larger; that the proposed structure is appropriate for the site.

The applicant agreed to comply with all recommendations contained in the report of Neglia Engineering dated July 15, 2022.

Mr. Carlet questioned Mr. Dipple regarding concerns about stormwater runoff and a storm drainage and sanitary sewer line video study and report.

Objector Rossi testified that he is concerned about drainage, flooding, and ice on adjacent property that he owns; that there is limited access on the sides of the buildings and ADA access; that he is concerned with quality of life, waste disposal and odors, rodent control, and restaurant operations, and parking.

Ms. Vandal testified as an architect and gave testimony concerning the floor plans; that the basement is the kitchen facilities and accessible only to employees; that the first floor is for seating and dining; that the second floor and third floor are identical, with two apartments on each floor with two bedrooms in each; that the roof will have mechanical and ventilation will be screened and not visible to the street and not accessible to anyone except for maintenance; that the fire escape will be removed; she testified as to elevation, building design, facade changed to brick instead of stucco; and the interior of the building will comply with all ADA codes and fire codes.

Mr. Carlet questioned Ms. Vandal regarding the PD1 zone requirements regarding colors and materials of exterior of the building; whether the side dimensions match on all plans. Mr. Tuvel stated that the plans will be revised and resubmitted before the next meeting.

At this point in the hearing, the Board continued the matter to the September 21, 2022, meeting of the Board.

2.	<b>1128 SPRINGFIELD ASSOCIATES, LLC,</b>
Use	635 Brighton Road, Block 42.16, Lot 6
Variance;	-- M2 – For site plan approval/amended site
Variances	plan approval, with associated “c” and “d” variances to construct building additions to the existing warehouse building on property. Please take notice that the applicant hereby requests any and all necessary variances, waivers, approvals or other relief from the City of Clifton zoning, site plan and land use ordinances, including but not limited to the following: 1. A d(2) variance for the expansion of the Nonconforming warehouse use;

2. Section 461 attachment #3 (minimum rear yard)(15 feet required; 14.8 feet existing and proposed).
3. Section 461-14 (minimum landscape buffer) (40 feet required, 10.4 feet existing and proposed).
4. Section 461-60(E)(parking in front yard prohibited)(parking in front yard existing and proposed).
5. Section 461-32(A)(high pressure sodium lights required; LED lights proposed).

This matter was previously continued by the Board until the August 17, 2022, meeting of the Board.

3. **TFJ HAZEL LLC**, 252 Hazel Street & 237 West 3<sup>rd</sup> Street, Block 16.11, Lots 1 & 2  
 Use -- RB2 – Preliminary and Final Major Site  
 Variance; Plan Approval, Minor Subdivision (lot  
 Variances consolidation) approval, d(1) use variance, d(1) use variance, d(5) density variance, and bulk (“c”) relief to construct a three (3)-story mid-rise (two (2) stories over parking), multi-family residential building containing fifty-four (54) dwelling units (currently proposed to contain twenty (20), one (1)-bedroom units; thirty-four (34), two (2)-bedroom units)and resident amenities (the “Proposed Building”), along with 104 on-site parking spaces (seventy-six (76) covered/under the Proposed Building and twenty-eight (28) surface parking spaces), and related site improvements (all proposed improvements collectively referenced as the “Project”) on the “Property.”

Lot 1 (+/- 71,752 square feet) is currently improved with a vacant, nonconforming manufacturing/ industrial building that was formerly operated as a textile dyeing and finishing facility (International Veiling Corp.).

Lot 2 (+/- 3,500 square feet) is improved with a vacant, one-family residential dwelling. As part of the application, the existing lots will be consolidated (combined) to form a new lot consisting of +/- 75,252 square feet and the existing improvements will be removed.

The Project is proposed to be accessed by a full-movement driveway along 7<sup>th</sup> Avenue and a full-movement driveway at the intersection of 7<sup>th</sup> Avenue and West 4<sup>th</sup> Street. An on-site loading zone is being proposed for resident, delivery, and refuse collection. Proposed site improvements include, but are not necessarily limited to, an electrical transformer and associated concrete pad, grading and drainage, stormwater management, underground utilities, lighting, landscaping, a monument sign near the proposed driveway on Seventh Avenue,

directional/wayfinding signage, building identification signage, electric vehicle charging stations, paving and striping, curbing, and walkways/sidewalks.

The Property is in the R-B2 (Residential, One- and Two-Family and Garden Apartments) Zone District (the “R-B2 Zone”), which does not permit mid-rise, multi-family residential buildings.

In connection with the preliminary and final major site plan approval related to the Project, the Applicant is seeking the following variances pursuant to N.J.S.A. 40:55D-70(d), from the City of Clifton Zoning Ordinance (the “Ordinance”), as follows:

1. From Section 461-13.1.E “Use Regulations” for the R-B2 Zone - To permit a mid-rise, multi-family residential building in the R-B2 Zone, where mid-rise, multi-family residential buildings are not permitted.
2. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements Residential Zone” - Minimum Lot Area per Dwelling Unit – To permit a lot area per dwelling unit of 1,393.6 square feet, where a minimum lot area per dwelling unit of 3,351 square feet is required.

In connection with the preliminary and final major site plan approval related to the Project, the Applicant is seeking the following variances pursuant to N.J.S.A. 40:55D-70(c), from the Ordinance, and/or waivers / exceptions from the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-4.14, as follows:

1. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements - Residential Zone” - Minimum Rear Yard Setback - To permit a rear yard setback (measured to the Garden State Parkway right-of-way) of 4.7 feet, where a minimum rear yard setback of 40 feet is required.
2. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements - Residential Zone” - Minimum Side Yard Setback - To permit a side yard setback of 12 feet (along Hazel Street (CR702)), where a minimum side yard setback of 20 feet is required.
3. From Section 461-13, Attachment 1 “Schedule of Regulations as to Bulk, Height and Other Requirements - Residential Zone” - Minimum Combined Side Yard Setback -To permit a combined side yard setback of 33.6 feet (12’ as measured from Hazel

Street (CR702) and 21.6' as measured from the property line adjoining Block 16.11, Lot 17), where a minimum combined side yard setback of 40 feet is required.

4. From Section 461-13, Attachment 1 "Schedule of Regulations as to Bulk, Height and Other Requirements - Residential Zone" - Maximum Lot Coverage of Principal Building – To permit a maximum lot coverage of 43.4%, where a maximum lot coverage of 25% is permitted.

5. From Section 461-60.1.A, "Requirements for off-street parking and loading spaces" – To permit 104 parking spaces to be provided, where 135 parking spaces are required under the Ordinance, but not under RSIS which controls.

6. From Section 461-42.A, "Additional requirements" - To permit pole-mounted, building-mounted, and/or site light-emitting diode (LED) lighting fixtures, where high-pressure sodium vapor lights are required.

7. From Section 461-60.A, "Standards for parking spaces and areas" – To permit off-street parking spaces sized 9' wide by 18' deep, where parking spaces are required to be 9' wide x 19' deep under the Ordinance, but not under RSIS which controls.

While the Applicant believes that except as stated above, the application is in conformance with the Ordinance, the Applicant recognizes that the Property has multiple street frontages along Hazel Street, West Third Street, Seventh Avenue, West Fourth Street, and the Garden State Parkway, and it may be determined during the review and processing of the application and/or based upon an analysis of the plans and testimony at the public hearing, that the Property has multiple front yards. In the event that it is determined that the Property has multiple front yards, the application may require additional variances from the Ordinance for minimum front yard setback (minimum of 25 feet required), minimum rear yard setback (minimum of 40 feet required), and/or minimum side yard setback (each, minimum of 20 feet required; combined/both, minimum of 40 feet required). If it is determined that the application requires such additional minimum front yard setback(s), minimum rear yard setback(s), and/or minimum side yard setback(s) the Applicant is hereby requesting same as part of the application.

The Applicant also requests any other approvals, waivers, variances, deviations and/or exceptions from the Ordinance, the City of Clifton General Ordinances, and/or RSIS as may be determined to be required for the Project during the review and processing of the application and/or based upon an analysis of the plans and testimony at the public hearing.

This matter was previously continued by the Board to the August 17, 2022, meeting of the Board.

### **NEW HEARINGS**

1. **REED BERINATO**, 35 Merrill Road, Block 67.04, Lot 31 – RB1 – Applicant is proposing a second floor addition and alteration where the following variances are being requested: Side yard setbacks proposed at 5.2’ and 9.8’ where 12’ on each side and 24’ combined is required.

The applicant, residing at 35 Merrill Road, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he proposes to replace the second floor due to its poor state of repair; that he is proposing a second floor addition and alteration; that the proposed second floor is not wider than the existing house; that he requires variances for side yard setback where 5.2 feet and 9.8 feet are proposed and 12 feet on each side and 24 feet combined is required.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application as 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. **DEVORAH KATZ**, 52 Cresthill Avenue, Block 58.13, Lot 60 – RA3 – Applicant is proposing to build a one-story rear addition over the existing house. The variances being requested are for combined side yard setback proposed at 11.8’ where 16’ is required, right-side yard setback proposed at 5.7’ where 6’ is required and maximum lot coverage proposed at 29.70% where 27% is required.

The applicant, residing at 52 Cresthill Avenue, Clifton, New Jersey, was present and affirmed. There were no objectors.

Ms. Katz testified that she is proposing to build a one-story rear addition over the existing house; that variances are being requested for combined side yard setback proposed at 11.8 feet where 16 feet is required; right side yard setback where 6 feet is required and 5.7 feet is proposed; and maximum lot coverage where 27 percent is required and 29.70 percent is proposed; that the existing dwelling is already set close on the east side and west side of the property; that the proposed one-story rear addition aligns entirely with the existing house and will not be visible at the front; that there project will allow the kitchen, dining and family space to be modernized and improved; that the benefits would outweigh the detriments, if any; that the application will promote the health, safety, morals, and general welfare and be a benefit to the community; that the use is a permitted use, so there would be no substantial detriment to the public good or to Clifton's zone plan.

After a review of the testimony, Comr Scott Sochon moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

3. **MOSHE YEROSHALMI**, 101 Patricia Place, Block 71.04, Lot 7 – RA3 – Applicant is proposing a second-floor addition over the existing footprint of the first-floor and will include a covered front porch. The following variances are needed: Front yard setback proposed at 22.5' where 25' is required. Rear yard setback proposed at 30.71' where 35' is required. Side yard setback proposed at 4.83' where 6' is required. Combined yard setback proposed at 9.54' where 16' is required. Maximum lot coverage proposed 34.23% where 27% is required.

The applicant, residing at 101 Patricia Place, Clifton, New Jersey, was present and affirmed. There were no objectors.

Comr Louis DeStefano recused himself from participating, and Comr George Silva sat in his place and stead.

Mr. Yeroshalmi testified that he is proposing a second floor addition over the existing footprint of the first floor and will include a covered front porch; that the variances requested are front yard setback 25 feet required and 22.5 feet proposed; rear yard setback 35 feet required and 30.71 feet proposed; side yard setback 6 feet required and 4.83 feet proposed; combined yard setback 16 feet required and 9.54 feet proposed; and maximum lot coverage 27 percent required and 34.23 percent proposed; that the existing dwelling already is set close on the front, east side, west side, and rear of the property; that the proposed second floor addition aligns entirely with the existing house below; that the approval of this application will advance the purposes of zoning and the benefits will substantially outweigh any detriments; that this modest encroachment will promote the public health, safety, morals, and general welfare of the community; that there is a covered front porch proposed will provide an aesthetic improvement and will promote a

desirable visual environment and be a benefit to the neighborhood; that the use is permitted and will continue as a permitted use, and there will be no substantial detriment to the public good or Clifton's zone plan.

After a review of the testimony, Comr Scott Sochon moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Comr George Foukas. Voting in the affirmative were Comrs George Silva, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

4. **ALMA BILLINGS**, 66 Scoles Avenue,  
Use Block 50.04, Lot 58 – RB1 – Applicant is  
Variance proposing to convert a two-family home  
into a 3-family home by adding a level.  
A variance is being requested to allow a  
3-family use which is not permitted in the  
zone.

The applicant, residing at 94 Scoles Avenue, Clifton, New Jersey, was present and sworn. Present and sworn were the following objectors: Eugene Tompkins and Emily Lahviola-Tompkins, 91 Clifford Drive, Wayne, New Jersey, re: 52 Scoles Avenue and 60 Scoles Avenue; and Samuel Rivera, 67 Scoles Avenue, Clifton, New Jersey.

Ms. Billings testified that she requests use variance approval to convert a two-family home into a three-family home by adding a level; that a use variance is requested since a three-family home is not permitted in the zone; that the additional level will add living space.

The objectors testified that there is a problem with parking in the neighborhood; that there are no three-family dwellings in the neighborhood; that the three-family home is an overuse, and there is no hardship.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to deny the application, stating that the applicant has shown no hardship, and instructed the Counsel Secretary to prepare the proper Resolution for denial. The motion was seconded by Comr Louis DeStefano. Voting for denial were Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a seven to zero vote, the motion carried, and the application was denied in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

5. **BARNES KORNER, LLC**, 615 Van Houten Ave., Block 43.02, Lot 1 – BC & RB2 – An expansion of the bar and restaurant known as DINGO’S DEN presently located on the first floor of the property to the second floor for a room for party rentals and overflow from the first floor and a two person apartment which will require a use variance. In addition, a variance will be required for insufficient parking (60 parking spaces required/1 parking space provided). However, there is existing municipal parking located in a municipal parking lot across the street from the subject property and another available municipal parking lot less than a block away therefrom, which were created specifically for parking of business establishments located along Van Houten Avenue. Further additional parking will be available on the Shook Funeral Home parking lot after it closes. Front, side and rear yard parking variances will be required for the existing expanded front and side yard setbacks and expansion into the rear yard setback for the construction of an elevator for the second floor.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn on behalf of the applicant were the following: Peter Steck, with offices at 80 Maplewood Avenue, Maplewood, New Jersey, a planner; Michael Capo, AIA, with offices at 1037 Route 46 East, Clifton, New Jersey, an architect; and Fred Barnes, managing member of the applicant, 6 Vale Place, North Caldwell, New Jersey. Present and sworn were the following objectors: Pamela Green, 13 Marconi Street; Ludivina Rosel, 10 Marconi Street, Nestor Juarez, 8 Marconi Street, Jyanne Romero, 8 Marconi Street; and Roselito Rosel, 10 Marconi Street, all of the City of Clifton, New Jersey.

The Board is in receipt of a report from its planner, Graviano & Gillis, dated July 14, 2022.

Mr. Capo testified as an architect and testified as to the location; that there is an existing two-story building with a bar/lounge on the first floor area and second floor are residential tenants; that the applicant will remove two apartments and leave one in the rear; that a private party area will be created; that the first floor will remain as is; that the only addition to the exterior will be the second story addition off the rear and a handicap lift in the rear; that all existing exterior surfaces will remain; that there will be an enclosed balcony; that the applicant will put siding on the rear addition; that the second floor area will be an extension of the business and what is already there.

There were discussions regarding re-siding the entire exterior of the building and not just the addition.

Mr. Barnes testified as managing member of the applicant that the second floor will be for overflow and private parties; that parking is presently on the street and on the two municipal lots close by; that after 9 P.M., patrons can park at Shook Funeral Home’s lot with an open-ended agreement; that the Grand Saloon and Bogeys both have two stories they use; that they want to expand the business to attract customers; that he has an

entertainment license for live music; that the balcony will be sound-proof; that he has been at the site for 24 years; that he has never gotten a complaint in all those years; that he is pro-active with any issues and neighbors.

The Board requested some type of written agreement from Shook Funeral Home for parking.

The objectors testified as to the problems with parking, noise, and disrespect to neighbors.

Mr. Steck testified as a planner and stated that the property is a corner lot with the front part improved by a two story building with a bar; that the back part of the property is zoned RB2 which is residential; that the chair lift is in the back of the building; that there are municipal parking lots in the area and at the Shook Funeral Home lot; that the Master Plan encourages commercial development; that Goal No. 7 encourages the revitalization of older business areas; that the BC zone allows restaurants as a conditional use; that the party room will satisfy a need for the use of residents of the area; that the proposal will meet the purposes of zoning, and more specifically, a, d, m and i; that the application promotes the public health, safety, and general welfare; that the applicant has satisfied the positive and negative criteria required for the grant of a use variance; that the peculiar nature is because the use is intermittent, that is, on weekends and evening; that this is not a Medici case, there is a restaurant there already; the property is non-conforming because part of it is in a residential zone; it is a more efficient use of land; the applicant will improve the siding of the building; that the negative criteria is intermittent use; that small restaurant use is encouraged and not required to have on-site parking; that this is an established business and a responsible operator.

After a review of the testimony, the Board continued the matter for inspection and decision to September 7, 2022, at which time the objectors will have the opportunity to give closing statements.

6. **JAIME & VIVIANA BORJA**, 67 Huemmer Terrace, Block 64.01, Lot 17 – RA2 – Applicant is seeking variance relief from the Township Ordinance Section 461-47A for permission to construct a fence in excess of the height mandated by the said ordinance. The proposed fence is 6 ft. in height where 4 ft. is permitted. The fence is along the perimeter of the property.

At the request of the attorney for the applicant, this matter was continued to the August 17, 2022, meeting of the Board.

7. **MIGUEL GARCIA & ROSEANN TEMPRA**, 242 Washington Avenue, Block 18.08, Lot 22 -- RA3 – Applicant is seeking to expand the second floor and perform multiple interior renovations to the first floor of the existing home which is their primary residence. The applicant is seeking one (1) new variance for the maximum building coverage where 27% is required and the applicant is proposing 37.2%. The applicant is also requesting three (3) variances, all of which are pre-existing (a side yard setback variance of 4.6 feet where 6 feet is required; combined side yard variance of 15.9 where 16 feet is required

and a side yard (street side) variance of 11.3 feet where 10 feet is required).

At the request of the attorney for the applicant, this matter was continued to the August 17, 2022, meeting of the Board.

8. **522 VALLEY ESTATES LLC**, 522 Valley Road, Block 32.01, Lot 12 – Steep Slope District – Preliminary and final major site plan approval, use variance, bulk variance and design waiver/exception relief (the “Application”) by 522 Valley Estates LLC (the “Applicant”) with respect to property having a street address of 522 Valley Road, Clifton, New Jersey 07013, and being designated as Block 32.01, Lot 12 on the City of Clifton Tax Map (the “Property”). The Property is located in the Steep Slope Zoning District. The Applicant seeks approval to demolish the existing building and raze the Property and construct a new residential complex consisting of 21 townhouse dwelling units within three (3) separate buildings, 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; 42.75 feet proposed). The Applicant also seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70(c), including: (1) Number of stories greater than permitted (3 stories permitted; 4 stories proposed). The Applicant also seeks any additional deviations, exceptions, design waivers, submission waivers, variances, use variances, conditional use variances, interpretations, 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 R. Tuvel, Esq., with offices at One University Plaza Drive, Hackensack, New Jersey, appeared on behalf of the applicant and requested that the matter be continued to the September 7, 2022, meeting of the Board.

9. **PETRA GARDEN, LLC**, 62-66 Mt. Prospect Ave., Block 36.01, Lot 11.01 – B-A – The applicant is proposing to amend current approved plans, under Zoning Board Resolution adopted September 5, 2018, from a 36 unit residential building to a 20 two-bedroom residential unit building with an additional one bedroom apartment for an on-site super (total 21 residential units) and to keep the existing daycare on site instead of razing it as would be

required under the 36 unit approved plan. The applicant requests the following variances:  
Use variance for the proposed use. A variance permitting the two uses on one lot (residential and daycare). Front yard proposed at 4 Ft. where 25 ft. is required. Side yard proposed at 5 Ft. where 10 ft. is required. A variance for maximum lot coverage as the building lot coverage is 31.4% where maximum lot coverage is 30%.  
A variance for LED sight lighting. A variance for parking space depth proposed at 18 Ft under the RSIS where Clifton Code requires 19 ft.  
A variance from the code stating that no parking is permitted in the front yard which is currently existing and proposed. A variance from the parking requirement that parking areas be no closer than 10 Ft. to the rear lot line where this is presently existing at 0 ft. and 0 ft. is proposed. A variance permitting a maneuvering area to be within 5 Ft. of the lot line where 4 Ft. is proposed, and more than 5 Ft. is required. A variance for the super apartment to be in the attic. A variance or waiver from submitting an Environmental Impact Statement as the land is not being changed by fill and there will be no tree removal. There will also be no basement. The project will not implicate the environmentally sensitive areas listed in 14. The building will be placed in virtually the same area as a building that was previously razed in the past on the subject property.

Dominic Iannarella, Esq., with offices at 139 Lakeview Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Mr. Iannarella is also the sole member of the applicant LLC. Present and sworn on behalf of the applicant were the following: Michael Capo, AIA, with offices at 1037 Route 46 East, Clifton, New Jersey, an architect; Thomas Donohue, 210 Summit Avenue, Montvale, New Jersey, engineer; and Peter Steck, with offices at 80 Maplewood Avenue, Maplewood, New Jersey, a planner. There were no objectors.

The Board is in receipt of reports from its engineer, Neglia Engineering, dated July 7, 2022; and its planner, Graviano & Gillis, dated July 12, 2022; as well as report from the Clifton Fire Department dated July 7, 2022.

Mr. Donohue testified regarding the site plan; the location of the property; that the property is split BA zone and RB1 zone; that the site is 60,438 square feet and irregular in shape; that presently there is a one-story building utilized by the day care use; that there are a number of parking areas and driveways and an outdoor play area. He testified as to existing non-conformities and parking; that there is a proposed 20 two-bedroom residential building with an additional 1 bedroom apartment for an on-site super and to keep the existing day care on site. He testified as to access and egress; that a D1 use variance is required in that only one principal use per lot is permitted, and the applicant proposes two principal uses of residential building and day care building; that a D1 use variance is required in that residential uses are not permitted in the BA zone district; that a D1 use variance is required in that multi-family residential uses and day care uses are not permitted in the RB1 zone; that bulk c variances are required for front yard setback where 25 feet is required and 4 feet is proposed; side yard setback where 10 feet is

required and 5 feet is proposed; lot coverage variance where 30 percent is maximum and 31.4 percent is proposed; maximum building height (stories) where two stories is maximum and 2.5 stories are proposed; that high pressure sodium vapor lighting is required and LED lighting is proposed; parking stalls are required to be 19 feet in length, and the applicant is requesting 18 feet; that there are existing conditions presently at the site that require variances as follows: drive aisle required to be 5 feet from the side property line and .4 feet is existing and proposed; parking areas shall be 10 feet from the rear property line and 0 feet is existing and proposed; parking areas shall not be in the front yard, and front yard parking is existing and proposed; and that parking areas in commercial districts shall not be accessed from residential districts, and access to a parking area from a residential district is existing and proposed; he testified as to the lighting and utility plan, storm drainage, retention basin, new fire hydrant, landscaping plan, soil erosion and sediment control plan, and fire truck maneuvering plan.

Mr. Capo testified as an architect as to the floor layout of the 2 ½ story residential premises, the exterior of the proposed premises, the mechanical units, and ADA unit.

Mr. Iannarella testified regarding the revision of the application to include the day care which is a valuable resource serving 130-140 families; the superintendent unit; that there is no basement; that the day care has a staggered schedule; and testified regarding milling, paving, and striping at the site.

Mr. Steck testified as a planner and had marked as "A-1" five pages which are satellite views of the subject property, rendering of the proposed façade, views of the proposed site from different locations, and views of the surrounding neighborhood as well as an overlay showing the prior approval and the newly proposed location of the buildings and summary of the variances being requested with proposed and existing conditions that he prepared; he testified regarding the prior approval; that the day care is an inherently beneficial use; he testified as to the surrounding uses in the area and the zoning in the area; he testified as to the use variances required and the bulk variances required; that the goals of the Municipal Land Use Law are advanced, Items a, e, d, and m; that the day care use is an inherently beneficial use; that the new plan has a lower density, sufficient space and is in an appropriate location; that it is a more efficient use of land and is particularly suited for the multi-family dwelling which is sharing a use with an inherently beneficial use; that there is a hardship element for existing conditions; that the applicant is preserving the day care center and is providing accessibility for emergency vehicles; that an office building would be uncharacteristic in this corridor; that there is no substantial detriment to the public good and the zone plan.

Ms. Santaurro made a closing statement on behalf of the New Bairn School at the site; that they have been there for 10 years; that they have an excellent reputation and dedicated staff; that the day care is affordable; that a denial would be devastating to families; that they wish to continue to serve the community at the site.

After a review of the testimony, Comr George Foukas moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting against approval were Comrs Scott Sochon and Michael Molner. By a five to two vote, the motion carried, and the application was granted in the form as more fully appears at the end of these Minutes.

The Minutes as stated is the complete testimony presented to the Board and upon which this decision is based.

## RESOLUTIONS

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

1. Upon motion made by Comr Michael Molner, seconded by Comr Louis DeStefano, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of VK ACQUISTIONS VI, LLC for preliminary and final site plan approval, a D1 use variance and D3 conditional use variance and C1 and C2 bulk variances for LED lighting in the parking lot areas; total off-street parking; parking, loading and drive aisles in front yard; parking, loading, and drive aisle setbacks to front yard; and landscaping for interior parking to improve and utilize the property for the parking and storage of trucks and trailers with accessory truck maintenance and service within the existing one-story commercial building on the site at 90 Kingsland Avenue, Block 84.01, Lot 25.01, was adopted.

2. Upon motion made by Comr George Foukas, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of TATIANA ROSADO for left side yard setback and combined side yard setback variances to build a second story addition at 99 Hamilton Avenue, Block 7.02, Lot 7, was adopted.

3. Upon motion made by Comr Zalman Gurkov, seconded by Comr George Foukas, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of NATASHA SEALY-DORVELUS for rear yard setback variance to construct a rear deck at 71 Homestead Street, Block 27.03, Lot 18, was adopted.

4. Upon motion made by Comr Zalman Gurkov, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOSEPH STICKLES for variances for side yard setback and rear yard setback to rebuild and enlarge an existing garage and variance for widening of the driveway at 59 Harrington Road, Block 55.12, Lot 13, was adopted.

5. Upon motion made by Comr Scott Sochon, seconded by Comr Zalman Gurkov, and affirmed by Comrs George Silva, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of JOSHUA COHEN for rear yard setback variances for a first floor addition at 33 Conover Court, Block 71.03, Lot 11, was adopted.

6. Upon motion made by Comr George Foukas, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, and George Foukas, the Resolution DENYING the application of JHONATY PEREZ-JIMENEZ for variance for a 5-foot-high solid fence along the front, left side, and rear of premises at 5 New Brier Lane, Block 67.07, Lot 1, was adopted.

7. Upon motion made by Comr Louis DeStefano, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of AVI & BAYLA GELLER for a front yard setback and number of stories variance to expand an existing one-family dwelling at 15 East Parkway, Block 58.05, Lot 8, was adopted.

8. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Louis DeStefano, and Vice-Chrmn Gerard Scorziello, the Resolution GRANTING the application of SAWSAN MAEMARI for side yard setback, combined side yard setback, front yard setback, minimum lot width, minimum lot area, and parking setback to convert a one-family to a two-family dwelling at 117 (119) West Second Street, Block 9.09, Lot 4, was adopted.

9. Upon motion made by Comr Michael Molner, seconded by Comr George Foukas, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of DAUGHTERS OF MIRIAM for a sixty (60) day extension from the date of this Resolution to file the signed mylar with the County Clerk at 155 Hazel Street, Block 24.07, Lot 1, was adopted.

### **COMMUNICATION**

Chrmn Zecchino announced that the Board would act upon the communication set forth on the Agenda:

1. Communication dated June 21, 2022, from Attorney Schepis regarding the application of DANIEL & MARGARITA KATZEVICH, 13 Somerset Place, Block 56.07, Lot 11.02, requesting 90 day extension of the time within which the applicant can obtain a building permit.

This matter was granted on March 20, 2019, for conditional use variance approval to utilize the property for a flex-industrial building with warehousing distribution, contractor storage, and manufacturing and office use. On February 19, 2020, the Board granted an extension to June 18, 2020. Due to unforeseen delays, the approval expired.

After a review of the matter and the proofs submitted, Comr Scott Sochon moved to grant the 90 day extension from the date that the Board adopts a resolution approving the extension. The motion was seconded by Comr Louis DeStefano with the unanimous approval of the entire Board.

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

Respectfully submitted,

JOHN D. POGORELEC  
COUNSEL SECRETARY

**MEETING OF JULY 20, 2022.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: REED BERINATO for premises known as: 35 Merrill Road, Block 67.04, Lot 31 be and the same is hereby: GRANTED combined side yard setback variance to erect a second floor addition.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on July 20, 2022. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests variance approval to erect a second floor addition to premises located at 35 Merrill Road, Block 67.04, Lot 31, which premises are located in an RB1 zone; and

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

- a. The applicant proposes to erect a second floor addition;
- b. A variance is required for side yard setbacks proposed at 5.2 feet and 9.8 feet where 12 feet on each side and 24 feet combined is required;
- c. The proposed second floor is not wider than the existing house;
- 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 proposal will be in accord with the intent and purpose of the master plan and the zone ordinance; and

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

NOW THEREFORE, BE IT RESOLVED that the application for combined side yard setback variance to erect a second floor addition at premises located at 35 Merrill Road, Block 67.04, Lot 31, be and the same is hereby approved and the variance for combined side yard setbacks be and the same is hereby granted and further subject to such further governmental approvals as may be required by law 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 same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.
24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

**Resolution moved by: Comr GEORGE FOUKAS.**  
**Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.**  
**Affirmed by: Comrs Zalman Gurkov, Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

**MEETING OF JULY 20, 2022.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: DEVORAH KATZ for premises known as: 52 Cresthill Avenue, Block 58.13, Lot 60 be and the same is hereby: GRANTED variances for combined side yard setback and maximum lot coverage to erect a one-story rear addition.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on July 20, 2022. 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 requests variance approval to erect a one-story rear addition at premises located at 52 Cresthill Avenue, Block 58.13, Lot 60, 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 erect a one-story rear addition over the existing house;
- b. A variance is required for combined side yard setbacks proposed at 11.8 feet where 16 feet is required, right side yard setback proposed at 5.7 feet where 6 feet is required, and maximum lot coverage proposed at 29.70 percent where 27 percent is required;
- c. The addition will align with the existing house;
- d. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- e. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for to erect a one-story rear addition at premises located at 52 Cresthill Avenue, Block 58.13, Lot 60, be and the same is hereby approved and the variances for side yard setback, right side yard setback, and maximum lot coverage be and the same are hereby granted and further subject to such further governmental approvals as may be required by law 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 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 SCOTT SOCHON.**

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

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

**MEETING OF JULY 20, 2022.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MOSHE YEROSHALMI for premises known as: 101 PATRICIA PLACE, BLOCK 71.04, LOT 7 be and the same is hereby: GRANTED front yard setback, rear yard setback, side yard setback, combined yard setback and maximum lot coverage variances to construct a second floor addition over the existing first floor, including a covered front porch.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on July 20, 2022. 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 requests variance approval to construct a second floor addition and covered front porch at premises located at 101 Patricia Place, Block 71.04, 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 erect a second floor addition over the existing footprint of the first floor along with a covered front porch;
- b. Variances are required for front yard setback where 25 feet is required and 22.5 feet is proposed; rear yard setback where 35 feet is required and 30.71 feet is proposed; side yard setback where 6 feet is required and 4.83 feet is proposed; combined yard setback where 16 feet is required and 9.54 feet is proposed; and maximum lot coverage where 27 percent is required and 34.23 percent is proposed.
- c. The proposed second floor addition aligns entirely with the existing first floor of the dwelling;
- 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 proposal will be in accord with the intent and purpose of the master plan and the zone ordinance; and

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

NOW THEREFORE, BE IT RESOLVED that the application for a second floor addition and covered front porch at premises located at 101 Patricia Place, Block 71.04, Lot 7, be and the same is hereby approved and the variances for front yard setback, rear yard setback, side yard setback, combined yard setback, and maximum lot coverage be and the same is hereby granted and further subject to such further governmental approvals as may be required by law 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 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 SCOTT SOCHON.**

**Seconded by: Comr GEORGE FOUKAS.**

**Affirmed by: Comrs George Silva, Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

**MEETING OF JULY 20, 2022.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ALMA BILLINGS for premises known as: 66 Scoles Avenue, Block 50.04, Lot 58 be and the same is hereby: DENIED use variance to convert a two-family to a three-family dwelling by adding a level.**

Testimony concerning the aforesaid application was taken by the Board at its meeting on July 20, 2022. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to deny the application on the basis of the following Resolution:

WHEREAS, the applicant requests use variance approval to convert from a two- to a three-family dwelling at premises located at 66 Scoles Avenue, Block 50.04, Lot 58, which premises are located in an RB1 zone; and

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

- a. The applicant proposes to convert a two-family dwelling to a three-family dwelling by adding a level;
- b. The premises are located in an RB1 zone which does not permit three-family dwellings;
- c. There are no three-family dwellings in the area;
- d. The applicant has shown no hardship or special reasons to justify the grant of the use variance requested;
- e. The detriments of the application outweigh the benefits, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will not be in accord with the intent and purpose of the master plan and the zone ordinance; and

WHEREAS, the Board further finds that the proposal will be substantially detrimental to the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application to convert a two-family to a three-family dwelling at premises located at 66 Scoles Avenue, Block 50.04, Lot 58, be and the same is hereby approved and the use variance be and the same is hereby denied.

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

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

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

**MEETING OF JULY 20, 2022.**

**RESOLVED** by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,** that the application of: **PETRA GARDEN, LLC**  
for premises known as: **62-66 Mt. Prospect Ave., Block 36.01, Lot 11.01**  
be and the same is hereby: **GRANTED** preliminary and final site plan approval, use variance for two principal uses on one lot, use variance for residential use in B-A zone, use variance for multi-family residential use and day care use in RB1 zone; and variances for front yard setback, side yard setback, lot coverage, maximum building height, LED lighting, parking stall size, drive aisles distance from side property line, parking areas distance from rear property line, parking area in front yard, and parking area in commercial district accessed from residential district to keep the existing one-story building utilized as a day care in place and erect a 21-unit, 2 ½-story multi-family dwelling.

Testimony concerning the aforesaid application was taken by the Board at its meeting on July 20, 2022. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests use variances and variances to keep the existing child care facility building and erect a 21-unit, 2 ½ -story multi-family dwelling at premises located at 62-66 Mt. Prospect Avenue, Block 36.01, Lot 11.01, which premises are located in a B-A and RB1 zones; and

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

- a. This property was the subject of a previous application that was granted on August 15, 2018, for use variance to demolish existing building on the site and construct one 2 ½ -story building with 36 residential units and 68 parking spaces, which testimony, plans, exhibits, and Resolution is incorporated herein by reference and made a part hereof;
- b. The within application proposes a smaller 21-unit residential building on the site with the existing daycare facility to remain;
- c. A use variance is required for the proposed multi-family dwelling located in the BA zone where multi-family dwellings are not permitted in the BA zone;
- d. A use variance is required for the existing day care use and the proposed multi-family use located in the RB-1 zone which does not permit multi-family dwellings and day care uses.
- e. A use variance is required for more than one principal use per lot, and the applicant is proposing two principal uses of residential apartment building and day care building;
- f. A front yard setback variance is required where 25 feet is required and 4 feet is proposed;
- g. A side yard setback variance is required where 10 feet is required and 5 feet is proposed;
- h. A lot coverage variance is required where 30 percent is permitted and 31.4 percent is proposed;
- i. A maximum building height (stories) variance is required where 2 stories is permitted and 2.5 stories are proposed;
- j. A variance is required for LED lighting where high pressure sodium vapor lighting is required;
- k. A variance is required for parking stall size where 19 feet is required and 18 feet is proposed;

- l. A variance is required for drive aisles which shall be 5 feet from the side property line and 2.4 feet is existing and proposed;
- m. A variance is required for parking areas 10 feet from the rear property line where 0 feet is existing and proposed;
- n. A variance is required for parking areas in the front yard where front yard parking is existing and proposed;
- o. A variance is required for parking areas in commercial districts shall not be accessed from residential districts, and access to parking area from a residential district is existing and proposed;
- p. The applicant presented the testimony of an architect, engineer, and planner in support of its application;
- q. The applicant, through its experts, testified that the height of the residential structure is 2 ½ stories and that the number of units is 21;
- r. Based upon the testimony of the applicant's planner, the site is a suitable site for the proposed uses and will be less intense than a permitted office use at the site;
- s. The applicant has shown sufficient reasons to satisfy the positive and negative criteria required for the grant of use variances;
- t. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- u. The benefits of the application outweigh the detriments, if any;
- v. The proposal will provide much needed housing for those individuals who will utilize the benefits of the train station which is located in the immediate vicinity;
- w. The day care use at the site is an inherently beneficial use;
- x. The site is particular suited for the proposed use; and

WHEREAS, the Board finds from the testimony presented by the applicant's experts that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since the proposal is less intense than a permitted office use; and

WHEREAS, the Board further finds that the grant of the use variances will not impair the intent and purpose of the zone plan and the zone ordinance; and

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

NOW THEREFORE, BE IT RESOLVED that the application to keep the existing one story building currently utilized as a day care facility and construct a 2 ½ story multifamily dwelling consisting of 1 one-bedroom unit for the superintendent and 20 two-bedroom units with at premises located at 62-66 Mt. Prospect Avenue, Block 36.01, Lot 11.01, be and the same is hereby approved and the use variances for two principal uses on one lot, residential use in the BA zone, and multi-family residential use and day care use in the RB1 zone and variances for front yard setback, side yard setback lot coverage, maximum building height, LED lighting, parking stall size, drive aisles 2.4 feet from side property line, parking area 0 feet from rear property line, parking area in the front yard, and parking in commercial district accessed from residential district be and the same are hereby granted and further subject to such further governmental approvals as may be required by law; **SUBJECT TO THE FOLLOWING:**

- a. SUBJECT TO PASSAIC COUNTY PLANNING BOARD APPROVAL;**
- b. SUBJECT TO COMPLIANCE WITH REPORT OF NEGLIA ENGINEERING ASSOCIATES DATED JULY 7, 2022; 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 same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.
23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.
24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void; except where such variance or conditional use approval is granted in connection with site plan or subdivision approval, in which case the time limit shall be three (3) years from the date the resolution approving the variance or conditional use is adopted.

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

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

**Affirmed by: Comrs Zalman Gurkov, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**

**MEETING OF JULY 20, 2022.**

**RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: DANIEL & MARGARITA KATZEVICH for premises known as: 13 Somerset Place, Block 56.07, Lot 11.02 be and the same is hereby: GRANTED a ninety (90) day extension of the conditional use variance approval to utilize the property for a flex-industrial building with warehousing distribution, contractor storage, and manufacturing and office use to November 15, 2022.**

WHEREAS, the applicant was granted conditional use variance approval on March 20, 2019, to utilize the property for a flex-industrial building with warehousing distribution, contractor storage, and manufacturing and office use; and

WHEREAS, the time period to obtain a building permit has expired; and

WHEREAS, due to Covid-19 pandemic and extenuating circumstances which were beyond the control of the applicant, the applicant has requested an extension of the time period to obtain a building permit for 90 days; and

WHEREAS, the Board has reviewed the matter, and for good cause shown;

NOW THEREFORE, BE IT RESOLVED that the time to obtain a building permit be and the same is hereby extended for a period of sixty (60) days, expiring on November 15, 2022 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 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 SCOTT SOCHON.**

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

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