

Minutes of a regular meeting of the Board of Adjustment of the City of Clifton, New Jersey, held at the Council Chambers, City Hall, Clifton, New Jersey, on Wednesday, September 4, 2019. Chrmn Mark Zecchino led the entire assembly in the Pledge of Allegiance to the Flag of the United States of America. Pursuant to the "Open Public Meeting Law" all notice requirements were satisfied. Chrmn Zecchino announced the time, place, and form of notice as well as advising all applicants that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

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

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 Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, the Minutes of the August 21, 2019, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARING

1. **CLIFTON IL, LLC, 782 & 784 Valley Road, Block 44.01,**
 Use Lots 14 & 11 – RA1 – Use and Bulk Variances and Variance; Site Plan Approval required for the construction of Variances a 31 unit garden apartment development limited to residents 55 years of age and older. The bulk variances required are for minimum side yard (10' proposed, 8.5' provided and 24' total proposed and 18.5' provided), maximum building height (30' required, 35' proposed), maximum density (7 dwelling units permitted per acre, 25 units per acre proposed) and parking space size (9' by 9' required, 9' by 18' proposed). Bulk variances from steep slope district required as follows:

	Average Slope	Maximum Building Coverage	Maximum Impervious Surface in Addition to Buildings	Minimum Open Space
	-----	-----	-----	-----
Permitted:	0-15%	25%	30%	30%
	15.1-25%	15%	25%	40%
	25.1-30%	10%	25%	50%
	Over 30%	0%	0%	100%
Proposed:	0-15%	51%	80%	20%
	15.1-25%	27%	43%	
	25.1-30%	31%	42%	

Over 30% 9% 16% 84%

Soil shall be excavated, removed, deposited, or disturbed within an area of slope in excess of 30%, which is not permitted. The uppermost point of a cut slope shall be higher than the top of the nearest downhill structure or building and the vertical cut shall be greater than 15' which is not permitted. Such other variances or waivers as may be determined to be required in the course of hearing the application.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present on behalf of the applicant were the following: Roger Bernier, President of Chelsea Senior Living and Managing Member of the applicant, 316 South Avenue, Fanwood, New Jersey; Douglas J. Coleman of 266 King George Road, Warren, New Jersey, an architect; and Jerrid Dinnen, P.E. with Atlantic Traffic + Design, 35 Technology Drive, Warren, New Jersey. There were two objectors, Mary Flynn of 14 Breen Court, Clifton, New Jersey; and Ann Schnakenberg, 268 Washington Avenue, Clifton, New Jersey.

This is a continued hearing from the meeting of June 19, 2019 and July 17, 2019.

Mr. Carlet had marked into evidence "Exhibit A-9" an Easement Agreement between Clifton Senior Living LLC, the owner of premises located at Lot 11 in Block 44.05; and Clifton II, LLC, the owner of premises located at Lot 14 in Block 44.05, which provides for the enjoyment of both parties to the various driveways, pathways, sidewalks, and parking spaces constructed on the premises in question. Mr. Carlet confirmed that the applicant stipulated that the project would be restricted to age 62 and over.

In objecting to the application, Mary Flynn stated that the site is environmentally sensitive; that the area should be preserved; that the applicant does not satisfy the purposes set forth in NJSA 40:55D-2; that the land should be left in its undeveloped condition.

In objecting to the application, Ann Schnakenberg was concerned with environmental issues; that the area is overcrowded; that approval of the application may create traffic and parking problems in the area.

In summation, Mr. Carlet set forth and reviewed the testimony given by his experts and stated that the applicant has sustained the burden of proof and has shown sufficient testimony to satisfy the positive and negative criteria required for the grant of the use variance.

After a review of the testimony, Comr George Foukas moved to deny the application, stating that the site is zoned for one-family use and the applicant's proposal exceeds the density provided by the Steep Slope Ordinance. There was no second to the motion; therefore, the motion failed.

Chrmn Zecchino called for another motion.

Thereupon, Comr Roy Noonburg moved to grant the application, stating that the proposal will benefit the elderly population of the City of Clifton and allow our senior citizens to be independent; that the concerns about traffic and parking have not been proven. Comr Noonburg further instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Louis DeStefano who stated that the proposal would substantially aid the elderly citizens of the City of Clifton and there is a need for such housing. Voting for the motion were Comrs Scott Sochon, Michael Molner, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting in the negative was Comr George Foukas. By a

six to one 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. **CLIFTON IL, LLC, 782 & 784 Valley Road,**
Use Block 44.01, Lots 14 & 11 – R-A1 – In addition
Variance to the Notice previously published, this is a notice of a supplemental application for a temporary use variance to permit parking of a trailer on Lot 14 in Block 44.01 adjoining the assisted living facility presently under construction on Lot 14 in said Block 44.01 to process applications for admission to said assisted living facility until April 30, 2020.

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicants. Present and sworn were the following on behalf of the applicant: Roger Bernier, President of Chelsea Senior Living and Managing Member of the applicant, 316 South Avenue, Fanwood, New Jersey; Jerrid Dinnen, P.E. with Atlantic Traffic + Design, 35 Technology Drive, Warren, New Jersey; and Peter Steck, Planner, 14 Maplewood Avenue, Maplewood, New Jersey. There were no objectors.

Mr. Carlet stated that the applicant seeks a temporary use variance approval to permit parking of a trailer on Lot 14 adjoining the assisted living facility presently under construction on Lot 14 to process applications for admissions to the said assisted living facility.

Mr. Bernier testified that there is a need for such a trailer to facilitate the processing of application by prospective tenants.

Mr. Dinnen testified as to the location of the site.

Mr. Steck testified as a planner and offered into evidence which was marked "A-1" an exhibit showing the location of the temporary trailer which will be a one-story trailer with gross floor area of 1,179 square feet used for sale purposes until April 30, 2020; that the use promotes the inherently beneficial use of the site in question; that the use variance is temporary and will expire on April 30, 2020; that the applicant has shown special reasons for the grant of the requested use variance.

After a review of the testimony, Comr Roy Noonburg moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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.

NEW HEARINGS

1. **ERIC POLICASTRO**, 102 Huron Avenue, Block 42.13, Variance Lot 5 – RB1 – Applicant proposes to build a rear yard deck. The following variances are requested:
 - 1) Rear yard setback proposed at 20' where 35' is required.
 - 2) Left side yard proposed at 4' and right side yard proposed at 3.1' where 6' is required.
 - 3) Combined side yards proposed at 7.1' where 16' is required.
 - 4) Lot coverage proposed at 51.8% where 27% is permitted.

The applicant, residing at 102 Huron Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests variance approval to erect a rear yard deck at the subject premises; that the rear yard setback requirement is 35 feet, and he is proposing 20 feet; that the left side yard setback requirement is 6 feet, and he is proposing 4 feet; that the right side yard requirement is 6 feet, and he is proposing 3.1 feet; that the combined side yard setback requirement is 16 feet, and he is proposing 7.1 feet; that the lot coverage permitted is 27 percent, and he is proposing 51.8 percent.

After a review of the testimony, Comr Michael Molner moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Daniel Trenk. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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.

2. **EDGAR TORRES**, 20 Spencer Avenue, Block 42.04, Variance Lot 12 – RB2 – Applicant proposes to build a rear yard single story addition. Addition is proposed 20' from rear lot line where 35' is required.

Edgar Torres, by his Power of Attorney, William Brennan, of 1992 Morris Avenue, Union, New Jersey, was present and sworn. There were no objectors.

Mr. Brennan testified on behalf of the applicant and stated that the applicant was unavailable to give testimony and, therefore, he was appearing as his Power of Attorney; that the proposal is to build a rear yard, single-story addition at the subject premises; that a variance is required for a rear yard setback where 35 feet is required and 20 feet is proposed; that the purpose is to add a room and barrier free bathroom for the applicant's elderly parents who require around-the-clock assistance; that the applicant's father is 87 years of age and the applicant's mother is 75 years of age and in poor health condition.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the rear yard setback variance. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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. **BAKER ASSAF**, 93 DeMott Avenue, Block 12.19,
Variance Lot 1 – RB1 – Applicant proposes to install a 6’
high solid fence along the street side yard where
a 4’ high, 50% open fence is permitted and in
the back yard where a 5’ high fence is permitted.

The applicant, residing at 93 DeMott Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

Mr. Assaf testified that he requests variance approval to install a 6-foot-high solid fence along the street side where a 4-foot-high 50% open fence is permitted and in the rear yard, a 6-foot-high solid fence where a 5-foot-high fence is permitted; that the purpose of the height of the fence is to provide privacy and security for his three young children to protect them from running into the street.

Chrmn Zecchino suggested that the applicant install a 5-foot-high fence with a 1-foot open lattice. The applicant agreed and stipulated that he would comply with said stipulation.

After a review of the testimony, Comr Louis DeStefano moved to approve the application for a 5-foot-high solid fence with a 1-foot open lattice, for a total of 6 feet, and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variance for the fence height. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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. **KHAL PARK AVE. LLC**, 219 Rutherford Blvd.,
Use Block 60.07, Lot 1 – M-2 – Applicant seeks
Variance to utilize the second floor of an existing two-
story office building as a meeting room for
prayer services. No change will be made to
the exterior of the premises. Room will only
be used on weekends and religious holidays.
A use variance is required for a house of
worship in a M-2 zone and for two uses on
one lot. 18 parking spaces required and none
provided. Together with any other relief as the
Board deems necessary and proper.

Chrmn Zecchino read into the record a communication received from Glenn Peterson, Esq., attorney for the applicant, requesting an adjournment of the matter due to the unavailability of the applicant’s planning expert. Thereupon, the matter was continued by the Board until the October 2, 2019, meeting of the Board.

5. **MARIA ARNONE**, 1072 Main Avenue, Unit 1074A,
Use Block 8.02, Lot 1 – BC – Applicant proposes to
Variance convert an existing retail space into an **HERB-A-LIFE**
Store, preparing shakes for the clients. The
following variances are requested:
1) Conditional use variance, site does not
meet bulk and parking requirements for a
take-out restaurant.
2) Use variance for mixed use building.

Maria Arnone, residing at 5 Charles Street, Lodi, New Jersey, was present and sworn. There were no objectors.

Ms. Arnone testified that she proposes to convert an existing retail space into an Herb-A-Life store at premises located at 1072 Main Avenue, Unit No. 1074A; that the use primarily consists of preparing shakes for clients; that there will be no cooking or alcohol use at the site; that the proposed use requires a conditional use variance since it does not meet the bulk and parking requirements for a take-out restaurant; that additionally, a use variance is required for a mixed use building; that she proposes to operate seven days a week from 6 A.M. to 12 P.M.; that there will be approximately 4 to 6 employees at different times.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, 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.

6. **MUBEEN RANA**, 573-575 Clifton Avenue,
Use Block 20.12, Lot 8 – B-A1 – Applicant
Variances; proposes to add take-out food to an existing
Variances retail/grocery store. This store front received
BOA approval on 9/3/2008 for take-out
restaurant but the use was abandoned.
Current tenant requests the following
variances: 1) Use variance for a take-out
restaurant in a B-A zone. 2) Use variance

for a mixed use property. 3) Existing, nonconforming bulk and parking requirements.

The applicant, residing at 21 Clifton Terrace, Clifton, New Jersey, was present and sworn. There were no objectors.

Mr. Rana testified that he proposes to add take-out food to an existing retail grocery store at 575 Clifton Avenue; that the store previously received Board of Adjustment approval on September 3, 2008, for a take-out restaurant, but the use was abandoned; that the proposal requires a use variance for a take-out restaurant in a B-A zone; that a use variance is also required for a mixed use property; that there are existing, nonconforming bulk and parking requirements; that there will be no cooking at the site; that the hours of operation will be from 7 A.M. to 11 P.M., Monday through Saturday and 9 A.M. to 6 P.M. on Sunday; that there will be approximately two employees at the site.

After a review of the testimony, Comr Roy Noonburg moved to deny the application, citing the late hours of operation. The motion was seconded by Comr Louis DeStefano. Voting for denial were Comrs Roy Noonburg and Louis DeStefano. Voting against denial were Comrs Michael Molner, Daniel Trenk, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. There were two affirmative votes and five negative votes; therefore, the motion failed.

Chrmn Zecchino called for a new motion.

Thereupon, Comr Michael Molner moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the stipulation that the hours of operation will be from 7 A.M. to 11 P.M. Monday through Saturday and 9 A.M. to 6 P.M. on Sunday. The motion was seconded by Comr Daniel Trenk. Voting for approval were Comrs Michael Molner, Daniel Trenk, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting against approval were Comrs Roy Noonburg and Louis DeStefano. 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 Mark Zecchino stated that the next order of business would be the adoption of the Resolutions set forth on the Agenda.

1. Upon motion made by Comr Michael Molner, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Acting-Chrmn Gerard Scorziello, the Resolution GRANTING the application of TUFF SHED, INC. for preliminary and final site plan approval, use variances and bulk variances to operate a Tuff Shed retail facility at 552 NJ-Route 3, Block 82.01, Lot 43, was adopted. B-D

2. Upon motion made by Comr George Foukas, seconded by Comr Zalman Gurkov, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Acting-Chrmn Gerard Scorziello, the Resolution GRANTING the application of GABRELLIAN ASSOCIATES (Clifton Towne Square – OLD NAVY) for variance to install single façade sign on the easterly side of the building at Route 3 West/225-259 Allwood Road, Block 80.01, Lots 23 and 30. Pd-HC

3. Upon motion made by Comr Michael Molner, seconded by Comr Zalman Gurkov, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Acting-Chrmn Gerard Scorziello, the

Resolution GRANTING the application of STUART BRODY for variances for left side yard, combined side yards, and rear yard setbacks for a deck at 39 Norman Avenue, Block 22.07, Lot 28, was adopted. RB1

4. Upon motion made by Comr Roy Noonburg, seconded by Comr George Foukas, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Acting-Chrmn Gerard Scorziello, the Resolution GRANTING the application of VLADIMIR CANO for a front yard setback variance for a roof over the front stoop and steps at 85 Elm Street, Block 36.15, Lot 9, was adopted. RB1

5. Upon motion made by Comr Michael Molner, seconded by Comr George Foukas, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Acting-Chrmn Gerard Scorziello, the Resolution DENYING the application of KIRTAN PATEL for a left side yard setback variance for a driveway at 89 Van Riper Avenue, Block 3.05, Lot 8, was adopted. RB2

6. Upon motion made by Comr George Foukas, seconded by Comr Scott Sochon, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Acting-Chrmn Gerard Scorziello, the Resolution GRANTING the application of 51 CHESTNUT REALTY, INC. for lot coverage and right side yard setback variance approval for a back-up generator at 51 Chester Street, Block 10.05, Lot 5, was adopted. M-2

7. Upon motion made by Comr Zalman Gurkov, seconded by Comr Roy Noonburg, and affirmed by Comrs Zalman Gurkov, Scott Sochon, Michael Molner, George Foukas, Roy Noonburg, and Acting-Chrmn Gerard Scorziello, the Resolution GRANTING the application of SHARON SCHWARTZMAN for rear yard setback, left side yard setback, and combined side yard setback variances for a previously built rear yard deck at 25 Grant Avenue, Block 17.07, Lot 11, was adopted. RA3

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF SEPTEMBER 4, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFTON IL, LLC for premises known as: 782 & 784 Valley Road, Block 44.01, Lots 14 & 11 be and the same is hereby: GRANTED use and bulk variances and site plan approval for construction of 31 unit garden apartment development limited to residents 62 years of age and older.

Testimony concerning the aforesaid application was taken by the Board at its meetings on June 19, 2019, July 17, 2019, and September 4, 2019. Said testimony along with the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant has requested approval for an application for a D-2 variance approval for the property located at 782 & 784 Valley Road, Block 44.01, Lots 14 and 11, which premises are located in an RA1 zone in the Steep Slope Overlay District and are irregular in shape with frontage along Valley Road; and

WHEREAS, the applicant proposes to construct an age restricted multi-family development consisting of 31 units which consists of 4 two-bedroom apartments and 27 one-bedroom apartments in the proposed two-story building; and

WHEREAS, the applicant proposes additional on-site improvements that include pavement and pavement striping, retaining walls, concrete curbing and sidewalks and guide rails; and

WHEREAS, the applicant did offer into evidence the testimony of a planner, an architect, several engineers, and the President of the applicant; and

WHEREAS, the Board did receive reports from its planning consultant, Gregory Associates, LLC dated June 13, 2019; its engineering consultant, Neglia Engineering Associates dated May 29, 2019, and revised June 10, 2019; and a report from the City of Clifton Fire Department dated July 9, 2019; and

WHEREAS, the Board did receive into evidence "A-1" through "A-9" which were testified to by the planning consultant and the engineering consultant; and

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

a. The applicant has submitted an application for a use, bulk variances, and site plan approval for the construction of a 31-unit garden apartment development limited to residents 62 years of age and older;

b. The applicant seeks variances which include the following: 1) A D(1) Use Variance; 2) D(5) Density Variance; 3) D(6) Height Variance; 4) "C" Variances for side yard setback (one and both); Height Variance (Number of Stories); Coverage and Open Space in Steep Slope Areas;

c. The project proposes a two-story residential building over a level of parking that is partially underground with a total of 38 parking spaces, six spaces are proposed outside and the remainder are proposed in underground parking lot;

d. Based upon the testimony presented by the applicant's planner, the site is particularly suited for the proposed use, the cliff face of the slope will not be disturbed, and the master plan recognizes a need for this type of housing;

- e. There is a great demand for housing for elderly citizens, and the applicant has stipulated that occupancy will be limited to senior citizens the age of 62 and over and not 55;
- f. Based upon the testimony of the applicant's planner and engineers, the applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- g. The proposal satisfies the need for affordable senior citizen housing;
- h. The applicant has reviewed the report of Neglia Engineering dated May 29, 2019, revised June 10, 2019, and will comply with all recommendations set forth in said report;
- i. Based upon the testimony of the applicant's planner, the site can accommodate any potential problems associated with a density greater than that permitted by the ordinance;
- j. With respect to the bulk variances required, the applicant has shown sufficient hardship to justify the grant of the variances requested;
- k. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since it provides for much-needed senior citizen housing; and

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

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for a 31-unit garden apartment development for residents 62 years of age and over at premises located at 782 & 784 Valley Road, Block 44.01, Lots 14 and 11, be and the same is hereby approved and the use variance, density variance, height variance, side yard setback, one and both variances, coverage and open space in steep slope areas variances and site plan approval be and the same are hereby granted subject to such further governmental approvals as may be required by law **and subject to the following:**

- A. COMPLIANCE WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF NEGLIA ENGINEERING DATED MAY 29, 2019, REVISED JUNE 10, 2019;**
- B. ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF THE CLIFTON FIRE DEPARTMENT DATED JULY 9, 2019;**
- C. PASSAIC COUNTY PLANNING BOARD APPROVAL;**
- D. ANY AND ALL APPROVALS REQUIRED BY OUTSIDE AGENCIES, INCLUDING BUT NOT LIMITED TO THE NEW JERSEY DEPARTMENT OF TRANSPORTATION, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; HUDSON-ESSEX-PASSAIC SOIL CONSERVATION DISTRICT; CLIFTON POLICE DEPARTMENT; EMERGENCY MANAGEMENT AND DEPARTMENT OF PUBLIC WORKS**

- 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 and Neglia Engineering Associates 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 ROY NOONBURG.

Seconded by: Comr LOUIS DE STEFANO.

Affirmed by: Comrs Scott Sochon, Michael Molner, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 4, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: CLIFTON IL, LLC for premises known as: 782 & 784 Valley Road, Block 44.01, Lots 14 & 11 be and the same is hereby: GRANTED a use variance to permit parking of a trailer on Lot 14 in Block 44.01 to process application for admission to said assisted living facility until April 30, 2020.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 4, 2019. Said testimony along with the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests use variance approval for the parking of a trailer on a temporary basis to process application for admissions to the said assisted living facility until April 30, 2020 on Lot 14 at premises located at 782 & 784 Valley Road, Block 44.01, Lots 14 and 11, which premises are located in an RA1 zone; and

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

- a. The Board of Adjustment previously granted approval for the construction of a 31-unit garden apartment development limited to residents 62 years of age and over at 782 & 784 Valley Road, Block 44.01, Lots 14 and 11;
- b. The purpose of the trailer is to process applications by senior citizens to said facility;
- c. Based upon the testimony presented by the applicant's planner and engineer, the use promotes the inherently beneficial use of the premises;
- d. The applicant has satisfied the positive and negative criteria required for the grant of the use variance;
- e. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application to permit parking a trailer to process applications for admission to the assisted living facility approved by the Board at premises located at 782 & 784 Valley Road, Block 44.01, Lot 14 and 11, be and the same is hereby approved and the use variance be and the same is hereby granted subject to such further governmental approvals as may be required by law **subject to the condition that the use variance will be in effect until April 30, 2020, and thereafter expire:**

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 and Neglia Engineering Associates 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 ROY NOONBURG.
Seconded by: Comr LOUIS DE STEFANO.
Affirmed by: Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 4, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ERIC POLICASTRO for premises known as: 102 Huron Avenue, Block 42.13, Lot 5 be and the same is hereby: GRANTED bulk variances for a rear deck.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, September 4, 2019. Said testimony along with the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests bulk variances for a rear deck at premises located at 102 Huron Avenue, Block 42.13, Lot 5, which premises are located in an RB1 zone; and

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

- a. The applicant requests approval to build a rear deck at the subject premises;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 20 feet;
- c. The left side yard setback requirement is 6 feet, and the applicant proposing 4 feet;
- d. The right side yard setback requirement is 6 feet, and the applicant is proposing 3.1 feet;
- e. The combined side yard setback requirement is 16 feet, and the applicant is proposing 7.1 feet;
- f. The lot coverage permitted is 27 percent, and the applicant proposes 51.8 percent;
- g. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- h. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application for a rear yard deck at premises located at 102 Huron Avenue, Block 42.13, Lot 5, be and the same is hereby approved and the rear yard setback left side yard setback, right side yard setback, combined side yard setbacks, and lot coverage variances be and the same are hereby granted subject to such further governmental approvals as may be required by law:

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 and Neglia Engineering Associates report for the

above project.

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

Resolution moved by: Comr MICHAEL MOLNER.

Seconded by: Comr DANIEL TRENK.

Affirmed by: Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 4, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: EDGAR TORRES for premises known as: 20 Spencer Avenue, Block 42.04, Lot 12 be and the same is hereby: GRANTED rear yard setback variances for a rear single-story addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 4, 2019. Said testimony along with 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 grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests rear yard setback variance for a single story addition at premises located at 20 Spencer Avenue, Block 42.04, Lot 12, which premises are located in a RB2 zone; and

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

- a. The applicant proposes a single story addition to the rear of the subject premises;
- b. The rear yard setback requirement is 35 feet, and the applicant is proposing 20 feet;
- c. The purpose of the addition is for the care of his elderly father and mother;
- 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 to for a rear yard single-story addition at premises located at 20 Spencer Avenue, Block 42.04, Lot 12, be and the same is hereby approved and the rear yard setback variance be and the same is hereby granted subject to such further governmental approvals as may be required by law:

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 and Neglia Engineering Associates 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 VICE-CHRMN GERARD SCORZIELLO.

Seconded by: Comr MICHAEL MOLNER.

Affirmed by: Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 4, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: BAKER ASSAF for premises known as: 93 DeMott Avenue, Block 12.19, Lot 1 be and the same is hereby: GRANTED variance to install a 5-foot-high solid fence with an additional 1-foot-high open lattice fence along the street side and the back of the property.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 4, 2019. Said testimony along with the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests variance approval to install a 6-foot-high solid fence along the street side yard and the rear yard at premises located at 93 DeMott Avenue, Block 12.19, Lot 1, which premises are located in a RB1 zone; and

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

- a. The applicant proposes a 6-foot-high solid fence as set forth on the application;
- b. A 4-foot-high 50% open fence is permitted along the street side and a 5-foot-high fence is permitted in the rear yard;
- c. The applicant has stipulated to install a 5-foot-high solid fence with a 1-foot-high open lattice on top along the street side and rear yard, for a total height of 6 feet;
- d. The purpose of the fence is for privacy and protection for the applicant's children;
- e. The applicant has shown sufficient hardship to justify the grant of the variances requested;
- f. The benefits of the application outweigh the detriments, if any; and

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

WHEREAS, the Board further finds 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 erect a 5-foot-high solid fence with an additional 1-foot-high open lattice, for a total of 6-foot-high along the street side and along the rear at premises located at 93 DeMott Avenue, Block 12.19, Lot 1, be and the same is hereby approved and the fence height variance be and the same is hereby granted subject to such further governmental approvals as may be required by law **subject to the condition that the proposed 6-foot-high solid fence be 5 feet in height with a 1-foot open lattice:**

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 and Neglia Engineering Associates 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 Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 4, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MARIA ARNONE for premises known as: 1074 Main Avenue, Unit 1074A, Block 8.02, Lot 1 be and the same is hereby: GRANTED conditional use variance, use variance, and bulk and parking variances for a take-out Herb-A-Life restaurant.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 4, 2019. Said testimony along with 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 grant the application on the basis of the following Resolution:

WHEREAS, the applicant requests variance approval as aforesaid to convert an existing retail space into an Herb-A-Life store for the preparation of shakes for clients at premises located at 1074 Main Avenue, Unit 1074A, Block 8.02, Lot 1, which premises are located in a BC zone; and

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

- a. The applicant proposes to convert an existing retail space into an Herb-A-Life store at the subject premises;
- b. A conditional use variance and site plan approval are required since the applicant does not meet the bulk and parking requirements for a take-out restaurant;
- c. A use variance is also required for a mixed use building;
- d. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- e. The applicant has shown sufficient hardship to justify the grant of the bulk 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 to convert an existing retail space into a Herb-A-Life store at premises located at 1074 Main Avenue, Unit 1074A, Block 8.02, Lot 1, be and the same is hereby approved and the conditional use variance, use variance, and site plan approval be and the same are hereby granted subject to such further governmental approvals as may be required by law **subject to the following:**

- a. That there be no cooking on the site; and**
 - b. That there be no alcohol distribution.**
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 and Neglia Engineering Associates 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 VICE-CHRMN GERARD SCORZIELLO.
Seconded by: Comr LOUIS DE STEFANO.
Affirmed by: Comrs Michael Molner, Daniel Trenk, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 4, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MUBEEN RANA for premises known as: 573-575 Clifton Avenue, Block 20.12, Lot 8 be and the same is hereby: GRANTED use variances and bulk variances to add take-out food to an existing retail grocery store.

Testimony concerning the aforesaid application was taken by the Board at its meeting on September 4, 2019. Said testimony along with the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests variance approval as aforesaid to add take-out food to an existing retail grocery store at premises located at 573-575 Clifton Avenue, Block 20.12, Lot 8, which premises are located in a B-A1 zone; and

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

- a. The applicant requests approval to add a take-out food use to an existing retail grocery store.
- b. The Board previously granted approval on September 3, 2008 for a take-out restaurant, but the use was abandoned;
- c. The applicant has satisfied the positive and negative criterial required for the grant of the use variance for a take-out restaurant;
- d. The applicant has satisfied the positive and negative criteria required for the grant of a mixed use property;
- e. The applicant has shown sufficient hardship to justify the grant of the non-conforming bulk and parking requirements;
- f. The benefits of the application outweigh the detriments, if any; and

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

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

NOW THEREFORE, BE IT RESOLVED that the application to add take-out food to an existing retail grocery store at premises located at 573-575 Clifton Avenue, Block 20.12, Lot 8, be and the same is hereby approved and the use variance for a take-out restaurant and a use variance for a mixed use property and variances for non-conforming bulk and parking requirements be and the same are hereby granted subject to such further governmental approvals as may be required by law **with the stipulation that the hours of operation will be from 7 A.M. to 11 P.M., Monday through Saturday and 9 A.M. to 6 P.M. on Sunday:**

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 and Neglia Engineering Associates report for the

above project.

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

Resolution moved by: Comr MICHAEL MOLNER.
Seconded by: Comr DANIEL TRENK.
Affirmed by: Comrs Michael Molner, Daniel Trenk, George Foukas,
Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.