

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 18, 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, MICHAEL MOLNER, DANIEL TRENK, LOUIS DE STEFANO, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMRS SCOTT SOCHON AND GEORGE FOUKAS.

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

Upon motion made by Comr Louis DeStefano, seconded by Comr Daniel Trenk, the Minutes of the September 4, 2019, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARING

1. **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.

This matter was previously continued by the Board to the October 2, 2019, meeting of the Board.

NEW HEARINGS

1. **MARY ANN VIOLA**, 32 Maple Hill Road,
Variance Block 38.05, Lot 50 – RA3 – Applicant proposes to build a second floor addition over the existing home. A variance is requested for a 5' separation between the house and garage where 10' is required.

The applicant, residing at 32 Maple Hill Road, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that she requests variance approval to erect a second floor addition over the existing home; that a variance is requested for a 5-foot separation between the house and the garage where 10 feet is required; that the premises will continue to be a single-family dwelling.

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

Resolution for approval of the application. The motion was seconded by Comr Michael Molner. Voting in the affirmative were Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, 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. **ERNEST TEDESCO, 25 Grunwald Street,**
Variances Block 37.03, Lot 42 – RB1 – Applicant proposes to convert a building containing a tavern and a second floor apartment to a two-family dwelling. The tavern will be eliminated. Variances are requested for the existing left side yard setback at 0.7' where 12' is required and front yard setback at 1.3' where 25' is required. A new mid-level rear deck and access stair which follows the existing left side yard at 0.7' where 12' is required is also proposed.

The applicant, residing at 298 Rifle Camp Road, Woodland Park, New Jersey, was present and sworn. There were no objectors.

Mr. Tedesco testified that he proposes to convert a building containing a tavern and a second floor apartment into a two-family dwelling at premises located at 25 Grunwald Street; that the tavern will be eliminated; that the variances requested are as follows: 1) the left side yard setback is proposed at 0.7 feet where 12 feet is required; 2) the front yard setback is proposed at 1.3 feet where 25 feet is required; and 3) the mid-level rear deck proposed at 0.7 feet where 12 feet is required; that the purpose is to eliminate a tavern and bar and replace it with a two-family dwelling which is a more compatible use with the neighborhood.

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 variances. The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, 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. **ABED ABDELRAHMAN, 269 Union Avenue,**
Variances Block 18.16, Lot 11 – RA3 – Applicant proposes to build a garage that is extended by 4 feet. The following variances are requested: 1) Garage proposed at 338 square feet where 300 square feet is permitted. 2) Garage addition is 2.81' from the left side lot line where 5' is required.

The applicant, residing at 269 Union Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests variance approval to build a garage that is extended by 4 feet in the front; that the variances requested are as follows: 1) that the garage is proposed at 338 square feet where 300 square feet is permitted; 2) the garage addition is 2.81 feet from the left side lot line where 5 feet is required; that the roof will be flat rather than the current shape of concave; that the peak height of the structure will be 13 feet.

After a review of the testimony, Comr Roy Noonburg moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution for approval of the variances requested. The motion was seconded by Zalman Gurkov. Voting in the affirmative were Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, 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. **JED SKILLINS, 168 Abbe Lane, Block 33.05,**
Variance Lot 16 – RA3 – Applicant proposes to convert the existing attached garage to living space and expand the driveway farther to the left in front of the home. A variance is required for a driveway in front of the home not serving a garage.

The applicant, residing at 168 Abbe Lane, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests variance approval to convert an existing attached garage to living space and expand the driveway farther to the left in front of the home; that a variance is required for a driveway in front of the home not serving a garage; that the purpose of the driveway widening is to fit two cars side-by-side.

There was some discussion concerning the erection of a three-foot-high wall in front of the garage and front door for safety purposes. The applicant stipulated that he would comply with the recommendation of the Board and present his plan to the Zoning Officer Daniel Howell for approval.

After a review of the testimony, Comr Louis DeStefano moved to grant the application and instructed the Counsel Secretary to prepare the proper Resolution with the condition that there be a 3-foot-high wall erected in front of the garage and front door. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, 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.

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5. **GS AUTOPLEX, LLC d/b/a GARDEN STATE HONDA,**
Use 313 Allwood Road, Block 80.01, Lot 11.02 – PD-HC –
Variance; For a use variance to expand the existing new and

Variances used car dealership building and bulk variances for pylon sign height (20 feet permitted, 28 feet existing and 30 feet proposed) and lighting type (high pressure sodium required and color temperature kelvin proposed).

Frank A. Carlet, Esq., with offices at 1135 Clifton Avenue, Clifton, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Wayne Hall, the Garden State Honda Manager, 584 Route 3 West, Clifton, New Jersey; Roberto Martinez, Vice-President of Architecture and John Manilo, Vice-President of Engineering of Redcom Design & Construction LLC, 433 North Avenue East, Westfield, New Jersey; and Matthew J. Seckler of Stonefield Engineering & Design, LLC, 15 Spring Street, Princeton, New Jersey. There were no objectors.

Wayne Hall testified as the manager of the dealership and stated that Honda Motors will move into the property previously occupied by Liberty Lincoln and occupy the same for a new and used car dealership; that the proposal calls for improvements to the existing building that includes a new front entrance with frontage along Route 3, a one-story addition on the west side of the building, and a ramp to gain access to the roof for vehicle storage.

Roberto Martinez testified as a professional engineer and gave testimony concerning an exhibit which was marked into evidence as "A-1" consisting of four pages as follows: a rendering showing the front of the building on Page 1; on Page 2, a view of the premises from Allwood Road; on Page 3, and aerial exhibit of the site in question; and on Page 4, a site rendering. Mr. Martinez continued to testify that the front of the building will be replaced with a new storefront; that there is a need to expand the ramp to the top floor of the building in order to accommodate the elevator for the storage of vehicle; that the current elevator is insufficient in strength and capacity to handle the number of vehicles being moved.

John Manilo testified concerning the site rendering; that the site currently consists of 60,766 square feet; that the expansion of the building is necessary in order to store cars on the top level of the building; that there will be site modifications to the western side the property to accommodate the building expansion, as well as the addition of an entry to the front of the building, a proposed overhang in front of the building, as well as some landscaping and the erection of a sign where 20-feet-high is permitted, 28-feet-high presently exists, and 80-feet-high is proposed.

Matthew Seckler testified as a planner and stated that a use variance is required since it is an expansion of a non-conforming use; that the subject premises did receive a prior use variance approval for a new and used car dealership on March 19, 2003; that the proposal satisfies Goal 6 of the Master Plan; that the applicant is seeking a sign height variance where 20 feet is permitted, 30 feet is proposed, and presently existing is 28 feet; that the applicant is also seeking a variance for the use of LED light fixtures in place of the high-pressure sodium fixture lights which are required; that the LED light variance is necessary since high-pressure sodium bulbs are no longer manufactured; that the proposed LED lights produce the same visual effect as the high-pressure sodium bulbs would.

The Board was also in receipt of reports from its Planning Consultant Gregory Associates, LLC dated August 22, 2019; and from its Engineering Consultant Neglia Engineering Associates dated August 23, 2019.

After a review of the testimony, Comr Roy Noonburg moved to grant the application and further instructed the Counsel Secretary to prepare the proper Resolution with the stipulation that the applicant comply with all

recommendations set forth in the report of Neglia Engineering dated August 23, 2019. The motion was seconded by Vice-Chrmn Gerard Scorziello. Voting in the affirmative were Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, 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. **FRANK KOBLE**, 305 Luddington Avenue,
Use Block 19.12, Lot 1 – RA3 – Applicant proposes
Variance; to install an exterior door into the basement.
Variance Basement has an existing legal bathroom.
The following variances are requested:
1) A use variance for a bathroom in the
basement with access to the exterior.
2) Right side yard proposed at 0.8 ft.,
where 10 ft. is required (Roof over proposed
basement stair).

This matter was carried to the October 2, 2019, meeting of the Board in order to permit the applicant to properly give notice to all interested parties within 200 feet of the premises.

7. **PB NUTCLIF MASTER, LLC**, 340 Kingsland Street,
Use Block 80.02, Lot 1.01 – M-3 – Amended
Variance; preliminary and Final Site Plan approval to
Variances construct private roadways for internal
circulation and to provide access to a
parking garage previously approved and under
construction located, in part, on a portion of
Block 80.02, Lot 1.01 in the City of Clifton and
partially on a portion of Block 200, Lot 1 in
the Township of Nutley. The Premises are a
portion of the former **Hoffman-LaRoche (“HLR”)**
campus comprising approximately 116 acres, now
known as “ON3,” located in the City of Clifton
(Passaic County), and Township of Nutley (Essex
County). 340 Kingsland Street was sometimes
used as the street address for the HLR
campus, and currently, for ON3.
Block 80.02, Lot 1.01 in Clifton (“the
Premises”) are located in the M-3
zoning district. On November 7, 2018,
the Board adopted a resolution
memorializing its October 24, 2018
approval of Preliminary and Final
Subdivision approval to create three
(3) new tax lots and one remainder lot
from existing Block 80.02, Lot 1.01 and
Preliminary and Final Site Plan
approvals:
(a) to construct a portion
of a seven (7) level, +/- 2,566 parking

space garage of which approximately 570 parking spaces will be located in the City of Clifton ("Clifton") on approved Lot "B," one of the new tax lots to be created from existing Block 80.02, Lot 1.01, and

(b) to construct a 12 ft. high decorative screening wall on approved Lot "C" (the "2018 Approvals").

The balance of the parking garage, located in the Township of Nutley ("Nutley"), was granted site plan approval by the Planning Board of the Township of Nutley. The parking garage is to provide parking for 100 Metro Boulevard, located in Nutley (formerly known as Building 1 on the HLR campus) and 200 Metro Boulevard (formerly known as Building 76 on the HLR campus). 200 Metro Boulevard is located partially in Nutley and partially in Clifton (on approved Lot "D" as identified in the 2018 Approvals). The intent and effect of the 2018 Approvals was to allow the portion of the proposed parking garage located in Clifton to be located on a separate tax Lot (Lot "B" on the plans) and the portion of 200 Metro Boulevard located in Clifton to be located on a separate tax lot (Lot "D"). The existing cooling towers and support utility building also will be located on a separate tax lot (Lot "C"). The remainder lot, consisting of +/- 17.27 acres, is improved with a co-generation facility and various utility and related structures which currently are proposed to remain.

The proposed private roadways in Clifton that are the subject of this pending amended application, identified as "Prism Way" and "Road "D," are located on portions of the remainder lot and proposed Road "H" is located partially on approved Lot "C" and partially on the remainder lot. Portions of Roads "D" and "H" located in Nutley have been approved. The 2018 Approvals also granted use variances from 461-13.1.0. (which references Section 461-13.1.N.) of the Code of the City of Clifton, Chapter 461 – Zoning (the "Ordinance"), pursuant to N.J.S.A.

40:55D-70(d), to permit the parking garage which use is not a permitted principal or accessory use in the M-3 zone, to permit the continuing office use of the portion of 200 Metro Boulevard located in Clifton and the continuing cooling towers use. The Applicant is currently seeking a variance from 461-13.1.0 (which references Section 461-13.1.N) of the Ordinance, pursuant to N.J.S.A. 40:55D-70(d) to permit the proposed private roadways which use is not an expressly permitted principal or accessory use in the M-3 zone. The 2018 Approvals also granted numerous bulk variances from the Ordinance, pursuant to N.J.S.A. 40:55D-70(c), regarding the new lots and the remainder lot. The variance from Ordinance Section 461-13, Attachment 3, "Schedule of Regulations as to Bulk, Height and Other Requirements Industrial Zones," previously granted to permit 93.7% impervious coverage on the remainder lot where a maximum 40% impervious coverage is permitted, is being reduced to 92.69% by the pending amended application. The Applicant is seeking such additional or other variances, exceptions, approvals, permits, waivers or relief from the Ordinance, including waivers of design standards and/or submission requirements, as may be determined to be necessary to develop the Premises in the manner indicated in the application, plans and materials.

Meryl A.G. Gonchar, Esq., of Sills, Cummis & Gross PC, with offices at One Riverfront Plaza, Newark, New Jersey, appeared on behalf of the applicant. Present and sworn was Richard Procanik, the Project Manager Engineer of 92 East Main Street, Somerville, New Jersey; and David Novak, of 25 Westwood Avenue, Westwood, New Jersey, a Professional Planner with Burgess Associates. There were no objectors.

Ms. Gonchar stated that the applicant is seeking Amended Preliminary and Final Site Plan approval to permit construction of Prism Way and portions of Road D and H (private roads), on the remainder lot which comprises a portion of Block 80.02, Lot 1.01, along with a portion of Road H that is proposed to be located on approved Lot C, which roads will provide internal circulation throughout the ON3 campus that will provide access to the parking garage 2018 approvals which this application seeks to amend; that there are no changes proposed to the existing buildings and structures located on the proposed remainder lot; that there are no changes proposed to the three new lots

identified as Lots B, C, and D on the plans previously approved but not yet perfected.

Ms. Gonchar stated that the applicant is seeking use variance to permit construction of Prism Way and portions of Roads D and H, private roadways providing access to the 7-level, 2,566 parking space parking garage on an approved new tax lot, Lot B, comprising a portion of existing Block 80.02, Lot 1.01 and providing circulation throughout the ON3 campus; that said private roads are not expressly permitted principal or accessory uses in the M-3 zone.

Offered into evidence were the following exhibits:

“A-1” which is the Site Plan with cover sheets from 1.0 through 8.5; that the Sheet 1.0 indicates a sheet index, a flood insurance rate map, the Clifton properties served, the Nutley properties served, the utilities which were notified, the area and bulk requirements proposed for the M-3 district, the proposed parking calculations, a variance summary for Lots B, C, and D and design waiver summary for parking space, a sheet index identifying all improvements to the site.

“A-2” which is an aerial view of the site; and

“A-3” which is the Prism Way parking layout.

Richard Procanik testified as the Project Manager for the plans prepared by Stephen J. Powers, a Professional Engineer, outlining the proposed construction of Prism Way and portions of roads D and H on the remainder lot which comprises a portion of Block 80.02, Lot 1.01; that there will be no changes proposed to the approved lots which were the subject matter of the previous application approved by the Board; that the only exception is that of a portion of proposed Road H to be located on approved Lot C; that there are no changes proposed to the existing buildings and structures located on the proposed remainder lot; that there are no changes proposed to the three new tax lots identified as Lots B, C, and D on the plans previously approved; that the subject property received site plan approval from the Clifton Board of Adjustment at its meeting on October 24, 2018; that the engineering staff in charge of the proposed project has reviewed the report of Neglia Engineering dated September 11, 2019, which includes general engineering comments; grading, drainage, and utility comments; traffic comments; lighting and landscaping comments; and agrees to comply with all recommendations set forth in said report.

David Novak testified as a planner with Burgess Associates and stated that he gave testimony at the prior hearing before the Board on behalf of the applicant; that the applicant is seeking a D-1 use variance and associated C variances; that prior approvals were received to subdivide the property into three lots and construct a 7-story parking garage consisting of 890,400 square feet and 2,566 parking spaces on the proposed lots of Lot B in Clifton and Lot V in Nutley; that the applicant previously received a D-1 use variance approvals for the parking garages since they were not permitted uses in the zone; that approval was also obtained for a 12-foot-high screening wall; that a D-1 use variance is required for private roads since they are not specifically permitted uses in the M-3 zone; that with respect to the positive criteria, that the site is suitable and advances the purposes of zoning as set forth in N.J.S.A.40:55D-2, namely, Paragraph C, G, H, I, and K; that the proposed roadway will provide internal circulation throughout the ON3 campus and access to the parking garage which will help promote the health, safety, and general welfare of the site; that the negative criteria has been satisfied since there has been no testimony presented to show that the proposal will be detrimental to the public good and that the proposed roadway will advance the intent and purpose of the zone plan and the zone ordinance; that the roadway is appropriate and

necessary and provides for effective access to the parking garage and internal circulation throughout the ON3 campus.

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 approving the Amended Preliminary and Final Site Plan to construct a private roadway for internal circulation and provide access to the parking garage previously approved by the Board. The motion was seconded by Comr Zalman Gurkov. Voting in the affirmative were Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, 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.

RESOLUTIONS

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

1. With respect to the application of CLIFTON IL, LLC for use and bulk variances and site plan approval for the construction of 31 unit garden apartment development at 782 & 784 Valley Road, Block 44.01, Lots 14 and 11, Chrmn Zecchino stated that the Board was in receipt of a communication dated September 6, 2019, from the City of Clifton Environmental Commission stating that the Environmental Commission is appealing the Board of Adjustment's decision since the Environmental Commission did not have an opportunity to comment on the Environmental Impact Statement made available to the Commission by the applicant. There was discussion by the members of the Board, its Counsel, and Counsel for the applicant who happened to be at the meeting on a different matter. After discussion, and the Board being of the opinion that appropriate action was taken, Comr Roy Noonburg moved to adopt the Resolution GRANTING the application of CLIFTON IL, LLC for 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 at 782 & 784 Valley Road, Block 44.01, Lots 14 and 11 in an RA1, Steep Slope Overlay District. The motion was seconded by Comr Louis DeStefano, and affirmed by Comrs Michael Molner, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

2. Upon motion made by Comr Roy Noonburg, seconded by Comr Louis DeStefano, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of CLIFTON IL, LLC for a use variance to permit parking of a trailer on Lot 14 in Block 44.01 to process applications for admission to said assisted living facility until April 30, 2020, at 782 & 784 Valley Road, Block 44.01, Lots 14 & 11, was adopted. RA1

3. Upon motion made by Comr Michael Molner, seconded by Comr Daniel Trenk, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of ERIC POLICASTRO for bulk variances for a rear deck at 102 Huron Avenue, Block 42.13, Lot 5, was adopted. RB1

4. The Resolution GRANTING the application of EDGAR TORRES for rear yard setback variances for a rear single-story addition at 20 Spencer Avenue, Block 42.04, Lot 12, was **CARRIED** pending receipt of a Power of Attorney from the applicant. RB2

5. Upon motion made by Comr Louis DeStefano, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of BAKER ASSAF for 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 at 93 DeMott Avenue, Block 12.19, Lot 1, was adopted. RB1

6. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Louis DeStefano, and affirmed by Comrs Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MARIA ARNONE for conditional use variance, use variance, and bulk and parking variances for a take-out Herb-A-Life restaurant at 1074 Main Avenue, Unit 1074A, Block 8.02, Lot 1, was adopted. BC

7. Upon motion made by Comr Michael Molner, seconded by Comr Daniel Trenk, and affirmed by Comrs Michael Molner, Daniel Trenk, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of MUBEEN RANA for use variances and bulk variances to add take-out food to an existing retail grocery store at 573-575 Clifton Avenue, Block 20.12, Lot 8, was adopted. B-A1

There being no further business before the Board, Comr Louis DeStefano moved to adjourn. The motion was seconded by Vice-Chrmn Gerard Scorziello with the unanimous approval of the entire Board.

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF SEPTEMBER 18, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: MARY ANN VIOLA for premises known as: 32 Maple Hill Road, Block 38.05, Lot 50 be and the same is hereby: GRANTED approval for a second floor addition.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, September 18, 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 build a second floor addition over the existing home at premises located at 32 Maple Hill Road, Block 38.05, Lot 50, 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 build a second floor addition over the existing home;
- b. A variance is required for a 5-foot separation between the house and garage where 10 feet is required;
- c. The purpose of the addition is for the care of a handicap son;
- 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 over the existing home at premises located at 32 Maple Hill Road, Block 38.05, Lot 50, be and the same is hereby approved and the variance for separation between the house and garage 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 LOUIS DE STEFANO.

Seconded by: Comr MICHAEL MOLNER.

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

MEETING OF SEPTEMBER 18, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ERNEST TEDESCO for premises known as: 25 Grunwald Street, Block 37.03, Lot 42 be and the same is hereby: GRANTED bulk variances to convert a building containing a tavern and second floor apartment into a two-family dwelling.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, September 18, 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 to convert a building containing a tavern and a second floor apartment to a two-family dwelling at premises located at 25 Grunwald Street, Block 37.03, Lot 42, 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 presently maintains a tavern and an apartment at the subject premises;
- b. The applicant proposes to convert the tavern to a dwelling unit resulting in a two-family dwelling;
- c. The tavern will be eliminated by the proposed apartment;
- d. The left side yard setback requirement is 12 feet, and the applicant is proposing 0.7 feet;
- e. The front yard setback requirement is 25 feet, and the applicant is proposing 1.3 feet;
- f. The mid-level rear deck requirement is 12 feet, and the applicant is proposing 0.7 feet;
- 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 to convert a building containing a tavern and a second floor apartment to a two-family dwelling at premises located at 25 Grunwald Street, Block 37.03, Lot 42, be and the same is hereby approved and the bulk variances set forth herein 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 LOUIS DE STEFANO.
Affirmed by: Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 18, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: ABED ABDELRAHMAN for premises known as: 269 Union Avenue, Block 18.16, Lot 11 be and the same is hereby: GRANTED approval for a garage extended by 4 feet.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, September 18, 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 variance approval to build a garage that is extended by 4 feet at premises located at 269 Union Avenue, Block 18.16, Lot 11, 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 extend his existing garage by 4 feet at the subject premises;
- b. The garage proposed is 338 square feet where 300 square feet is permitted;
- c. The garage addition is 2.81 feet from the left side lot line where 5 feet is required;
- 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 build a garage that is extended by 4 feet at premises located at 269 Union Avenue, Block 18.16, Lot 11, be and the same is hereby approved and the aforesaid 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 ROY NOONBURG.

Seconded by: Comr ZALMAN GURKOV.

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

MEETING OF SEPTEMBER 18, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: JED SKILLINS for premises known as: 168 Abbe Lane, Block 33.05, Lot 16 be and the same is hereby: GRANTED approval to convert the existing attached garage to living space and expand the driveway farther to the left in front of the home.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, September 18, 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 as aforesaid to convert an existing attached garage to living space and expand the driveway to the left in front of the home at premises located at 168 Abbe Lane, Block 33.05, Lot 16, which premises are located in an RA3 zone; and

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

- a. The applicant requests approval to convert an existing attached garage to living space and expand the driveway further to the left in front of the house;
- b. A variance is required for a driveway in front of the home not serving a garage;
- c. The purpose of the driveway widening is to fit two cars side-by-side;
- 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 convert an existing attached garage to living space and expand the driveway further to the left in front of the home at premises located at 168 Abbe Lane, Block 33.05, Lot 16, be and the same is hereby approved and the bulk variances as aforesaid be and the same are hereby granted subject to such further governmental approvals as may be required by law AND SUBJECT TO THE CONDITION THAT THE APPLICANT INSTALL A 3-FOOT-HIGH WALL IN FRONT OF THE GARAGE AND FRONT DOOR:

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 VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 18, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: GS AUTOPLEX, LLC d/b/a GARDEN STATE HONDA for premises known as: 313 Allwood Road, Block 80.01, Lot 11.02 be and the same is hereby: GRANTED use variance to expand the existing new and used car dealership and bulk variances for pylon sign and lighting type fixtures.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, September 18, 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 to expand an existing new and used car dealership building and bulk variances as aforesaid at premises located at 313 Allwood Road, Block 80.01, Lot 11.02, which premises are located in an PD-HC zone; and

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

- a. The applicant proposes to expand an existing new and used car dealership at the subject premises;
- b. The applicant also requests bulk variances for a 30 foot pylon sign height and lighting type variance where high-pressure sodium is required and the applicant is proposing LED lights;
- c. The site in question received prior use variance approval for a new and used car dealership on March 19, 2003;
- d. Based upon the testimony of the applicant's experts, the applicant has satisfied the positive and negative criteria required for the grant of the expansion of a non-conforming use;
- e. The applicant has shown sufficient hardship to justify the grant of the sign height variance and the lighting type variance;
- f. The benefits of the application outweigh the detriments, if any;
- g. The site in question has pre-existing conditions;
- h. The proposal satisfies Goal 6 of the Master Plan; 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 expand the existing new and used car dealership building at premises located at 313 Allwood Road, Block 80.01, Lot 11.02, be and the same is hereby approved and the use variance and variances for a pylon sign height and lighting type fixture where high-pressure sodium is required and color temperature kelvin is proposed (LED) variances be and the same are hereby granted subject to such further governmental approvals as may be required by law **SUBJECT TO COMPLIANCE WITH ALL RECOMMENDATIONS SET FORTH IN THE REPORT OF NEGLIA ENGINEERING DATED AUGUST 23, 2019:**

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 VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF SEPTEMBER 18, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: PB NUTCLIF MASTER, LLC for premises known as: 340 Kingsland Street, Block 80.02, Lot 1.01 be and the same is hereby: GRANTED amended preliminary and final site plan approval to construct private roadways for internal circulation and to provide access to a parking garage previously approved and reduction in impervious coverage.

Testimony concerning the aforesaid application was taken by the Board at its meeting on Wednesday, September 18, 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 amended preliminary and final site plan approval to permit construction of Prism Way and portions of Road D and H, private roads, on the remainder lot which comprised a portion of premises located at 340 Kingsland Street, Block 80.02, Lot 1.01, along with a portion of Road H that is proposed to be located on approved Lot C, which roads will provide internal circulation throughout the ON3 campus and will provide access to the parking garage approved by the 2018 approval, which premises are located in an M-3 zone; and

WHEREAS, the applicant is seeking a use variance pursuant to N.J.S.A. 40:55D-70(1) to permit the construction of Prism Way and portions of Road D and Road H, private roadways providing access to the 7 level 890,400 square foot parking garage with 2,566 parking spaces and approved new tax Lot B comprising a portion of existing Block 80.02, Lot 1.01 and providing circulation to the ON3 campus which private roadways are not expressly permitted principal or accessory uses in the M3 zone; and

WHEREAS, the Board did hear testimony from the applicant's experts, Richard Procanik, PE, engineer; and David Novak, PP, AICP, planner; and

WHEREAS, the Board reviewed the reports of its planning consultant Gregory Associates LLC dated September 16, 2019, and the report of its engineering consultant, Neglia Engineering Associates dated September 11, 2019; and

WHEREAS, the Board did review and enter into evidence "A-1" through "A-3" the site plan, the aerial view of the site, and the Prism Way parking layout; and

WHEREAS, there were no objectors to the application; and

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

- a. The subject property received site plan approval for the multi-level parking garage from the Board of Adjustment of the City of Clifton at its meeting on October 24, 2018;
- b. All the previous findings by the Board in the aforesaid Resolution are incorporated herein by reference and made a part hereof;
- c. The site is zoned M-3 Special Industrial Zone;
- d. Private roadways are not expressly permitted principal or accessory uses in the M-3 zone;
- e. The purpose of constructing the private roadways will provide internal

circulation to the ON3 campus and will provide access to the parking garage previously approved;

f. No changes are proposed to the existing buildings and structures previously approved by the Board;

g. Based upon the testimony presented by the applicant's engineer, the proposed roadway construction of Prism Road will provide safe access to the multi-level parking garage and further provide safe circulation throughout the ON3 campus;

h. Based upon the testimony of the applicant's planning expert, the applicant has satisfied the positive and negative criteria required for the grant of the use variance since the site is suitable, and the proposal will advance the purposes of zoning set forth in N.J.S.A. 40:55D-2;

i. The applicant has shown sufficient hardship to justify the grant of the bulk variances requested;

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

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance since it satisfies a number of goals and objectives of the Master Plan; and

WHEREAS, the Board further finds that the proposed roadway construction will help promote the health, safety, and general welfare at the site by providing safe access to the parking garage and safe internal traffic circulation throughout the ON3 campus;

NOW THEREFORE, BE IT RESOLVED that the application for amended preliminary and final site plan approval to construct private roadways for internal circulation and to provide access to a parking garage previously approved at premises located at 340 Kingsland Street, Block 80.02, Lot 1.01, be and the same is hereby approved and the use variance and bulk variances be and the same are hereby granted subject to such further governmental approvals as may be required by law **SUBJECT TO THE FOLLOWING:**

1. The applicant shall obtain any and all approvals required by outside agencies, including but not limited to NJDOT, NJDEP, Passaic County Planning Board, Passaic County Utilities Authority, Passaic Valley Water Commission, Passaic Valley Sewerage Commission, and Hudson-Essex-Passaic Soil Conservation District as well as for the City of Clifton Police Department, Fire Department, Emergency Management and Department of Public Works. It is the applicant's responsibility to determine what outside agency permits are required. Copies of said approvals shall be provided upon receipt.

2. All recommendations set forth in the Report of Neglia Engineering Associates dated September 11, 2019;

3. All variances as contained in the report of Gregory Associates dated September 16, 2019;

4. Subject to all comments and recommendations of the City of Clifton Fire and Police Department regarding on-site access and circulation;

5. Subject to location of fire hydrants to the City of Clifton as recommended by the Clifton Fire Department;

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.

THIS RESOLUTION, IF NOT ACTED UPON (OBTAIN A BUILDING PERMIT) WITHIN ONE (1) YEAR OF THE DATE OF ADOPTION OF THIS RESOLUTION, SHALL BECOME NULL AND VOID, OR AS AMENDED.

NO BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNLESS THE REQUIRED COUNCIL ON AFFORDABLE HOUSING (COAH) FEE AS DETERMINED BY THE REQUIRED MUNICIPAL OFFICIALS AND THE MUNICIPAL HOUSING LIASON IS PAID. THIS WILL APPLY TO EITHER THE APPLICANT OR THE OWNER UPON

SUBMISSION OF REQUIRED PLANS FOR BUILDING PERMITS.

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 ZALMAN GURKOV.
Affirmed by: Comrs Zalman Gurkov, Michael Molner, Daniel Trenk, Louis DeStefano, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.**