

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, October 16, 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 MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, ROY NOONBURG, VICE-CHRMN GERARD SCORZIELLO, AND CHRMN MARK ZECCHINO.

ABSENT: COMRS ZALMAN GURKOV, SCOTT SOCHON, AND DANIEL TRENK.

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 George Foukas, the Minutes of the October 2, 2019, regular meeting were adopted with the unanimous approval of the entire Board.

CONTINUED HEARING

1. 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).

The applicant, residing at 305 Luddington Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

Comr Roy Noonburg excused himself from participating in the matter.

The applicant testified that he requests use variance and bulk variance approval to install an exterior door into the basement at the subject premises; that the basement has an existing legal bathroom; that a use variance is required for a bathroom in the basement with access to the exterior; that in addition to the use variance, a side yard setback variance is required since the applicant proposes .08 feet where 10 feet is required; that the purpose of the additional entrance is to allow the tenant access to the basement without having to use the entrance to the owner's apartment.

Questions were raised by Board members concerning the applicant's hardship. The applicant stated that the second entrance will be for the convenience of both the tenant and the owner.

After a review of the testimony, Vice-Chrmn Gerard Scorziello moved to deny the application and instructed the Counsel Secretary to prepare the proper Resolution, stating that the applicant has failed to sustain the burden of proof and has shown no hardship to justify the grant of the variances requested. The motion was seconded by Comr George Foukas. Voting in the affirmative were Comrs Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. By a five to zero, the motion carried, and the application was denied in the form as more fully appears at the end of these Minutes.

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

NEW HEARINGS

1. **SAMI SOLAIMANZADEH, 107 Patricia Place, Variances Block 71.04, Lot 8 – RA3 – Applicant proposes to build a second floor addition, rear addition and an addition to the front entry way. The following variances are requested:**
 - 1) Front yard proposed at 23.09' where 25' is required.
 - 2) Rear yard proposed at 30.9' where 35' is required.
 - 3) Left side yard proposed at 4.85' and right side yard proposed at 4.93' where a minimum of 6' is required.

4) Combined side yards proposed at 9.78' where 16' is required.

5) Lot coverage proposed at 31.3% where a maximum of 27% is permitted.

The applicant and his wife, residing at 11 Rowland Avenue, Clifton, New Jersey, was present and affirmed. There were no objectors.

Comr Louis DeStefano excused himself from participating in the matter.

The applicant testified that he proposes to build a second floor addition, a rear addition, and an addition to the front entrance; that variances are required for the front yard where 25 feet is required and 23.09 feet is proposed; rear yard where 35 feet is required and 30.9 feet is proposed; left and right side yard setbacks where 6 feet is required and 4.85 feet is proposed on the left side and 4.93 feet is proposed on the right side; combined side yards where 16 feet is required and 9.78 feet is proposed; that lot coverage permitted is 27 percent, and proposed is 31.3 percent; that the site presently has an existing non-conforming side yard and front yard setback; that the proposed size of the dwelling and lot coverage is designed to be in scale with the other homes in the neighborhood.

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

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

2. **RALPH TRAVELLIN**, 956 Van Houten Avenue,
Use Block 35.10, Lot1 – B-C – Applicant proposes
Variance to add a used car license to the existing service
station. A use variance is required for two uses
on one lot. No car sales are proposed on site.
Applicant intends on purchasing vehicles at
auction to use for parts. Any other relief that
may be deemed necessary by the Board.

The applicant, the owner of Clifton Sunoco, located at 956 Van Houten Avenue, Clifton, New Jersey, was present and sworn. There were no objectors.

The applicant testified that he requests use variance approval to add a used car license to the existing gasoline service station; that a use variance is required for two uses on one lot; that no car sales are proposed on the site; that it is the intent of the applicant to purchase vehicles at auction to use for parts; that there will be no signs at the premises; that there will be approximately one to two vehicles purchased per month; that the vehicles will be parked on the northeast side of the building.

There was discussion by the Board concerning sales of vehicles at the site. The applicant stated that there would be no sales; that a used car license is required in order for the applicant to go to auction to purchase vehicles for parts to be used in repairing automobiles.

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 with the following stipulations:

1. That there be no selling of vehicles at the site;
2. That there be no more than two vehicles purchased per month;
3. That there be no signs posted at the premises "For Sale."

The motion was seconded by Comr Louis DeStefano. Voting in the affirmative were Comrs Michael Molner, Louis DeStefano, George Foukas, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino. Voting in the negative was Comr Roy Noonburg. By a five 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.

3. NELY ALTAMIRANO, 42 Paterson Avenue,
Use Block 82.02, Lot 64 – RA3 – Bulk variances
Variance; requested in connection with a proposed rear
Variances addition to existing two-family dwelling and
changing location of one car garage: seeking
"D" variance approval for expansion for
non-conforming use and such other variances
and/or waivers, if any, relating to the
application as the same may be amended.

Fausto Simoes, Esq., appeared on behalf of the applicant and requested that the matter be adjourned since a use variance is required, and he would request a decision to be rendered by a full Board of seven members.

Thereupon, the matter was continued by the Board to the November 6, 2019, meeting of the Board.

CONTINUED RESOLUTION

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 Vice-Chrmn Gerard Scorziello, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, 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 adopted. RB2

RESOLUTIONS

1. Upon motion made by Comr Roy Noonburg, seconded by Comr Louis DeStefano, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of KHAL PARK AVE. LLC for use variance to utilize the second floor of an existing two-story office building as a meeting room for prayer services at 219 Rutherford Boulevard, Block 60.07, Lot 1, was adopted. M-2

2. Upon motion made by Comr George Foukas, seconded by Vice-Chrmn Gerard Scorziello, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution GRANTING the application of PETER KAROUNOS "BOOM CLIFTON LLC" for a use variance to add an entertainment license to his eating establishment at 390 Route 3, Block 72.07, Lot 7.01, was adopted. PCD

3. Upon motion made by Vice-Chrmn Gerard Scorziello, seconded by Comr Michael Molner, and affirmed by Comrs Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino, the Resolution DENYING the application of RISTO NIKOLOVSKI for bulk variances to convert a single-family dwelling to a two-family dwelling at 26 Vernon Avenue, Block 6.23, Lot 19, was adopted. R-B1

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

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF OCTOBER 16, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: FRANK KOBLE for premises known as: 305 Luddington Avenue, Block 19.12, Lot 1 be and the same is hereby: DENIED use variance and bulk variance to install an exterior door into basement.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 16, 2019. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests use variance and bulk variance approvals to install an exterior door into the basement at premises located at 305 Luddington Avenue, Block 19.12, Lot 1, which premises are located in a RA3 zone; and

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

- a. The applicant proposes to install an exterior door into the basement which has an existing legal bathroom.
- b. A use variance is required for a bathroom in the basement with access to the exterior;
- c. The right side yard setback requirement is 10 feet, and the applicant is proposing .8 feet;
- d. The applicant has shown no hardship to justify the grant of the bulk variance requested;
- e. The applicant has failed to satisfy the positive and negative criteria for the grant of a use variance;
- f. The applicant has failed to sustain the burden of proof to justify the grant of the variances requested; and

WHEREAS, the Board finds from the testimony presented that the proposal will not be in accord with the intent and purpose of the master plan and the zone ordinance which does not permit a basement bathroom having access to the exterior; and

WHEREAS, the Board further finds that the proposal will not promote the health, safety, and general welfare of the neighborhood;

NOW THEREFORE, BE IT RESOLVED that the application for an exterior door into the basement at premises located at 305 Luddington Avenue, Block 19.12, Lot 1, be and the same is hereby disapproved and the use variance and bulk variance be and the same are hereby denied

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

MEETING OF OCTOBER 16, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: SAMI SOLAIMANZADEH for premises known as: 107 Patricia Place, Block 71.04, Lot 8 be and the same is hereby: GRANTED front yard setback, rear yard setback, left and right side yard setback, combined side yard setback, and lot coverage variances for a second floor addition, a rear addition, and an addition to the front entry way.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 16, 2019. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests variance approval as aforesaid to build a second floor addition, a rear addition, and an addition to the front entry way at premises located at 107 Patricia Place, Block 71.04, Lot 8, 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, a rear addition, and an addition to the front entryway at the subject premises;
- b. The front yard setback requirement is 25 feet, and the applicant is proposing 23.09 feet;
- c. The rear yard setback requirement is 35 feet, and the applicant is proposing 30.9 feet;
- d. The left side yard setback requirement and the right side yard setback requirement are 6 feet, and the applicant is proposing 4.85 feet on the left side and 4.93 feet on the right side;
- e. That the combined side yard setback requirement is 16 feet, and the applicant is proposing 9.78 feet;
- f. The lot coverage permitted is 27 percent, and the applicant is proposing 31.3 percent;
- g. The site has existing, non-conforming side yards and front yard setback;
- h. The size of the structure and lot coverage is consistent with the other homes in the neighborhood;
- i. The applicant has shown sufficient hardship to justify the grant of the 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 the structure is a one-family dwelling and will continue to remain a one-family dwelling; 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, rear addition, and addition to the front entry way at premises located at 107 Patricia Place, Block 71.04, Lot 8, be and the same is hereby approved and the variances for front yard setback, rear yard setback, left side yard setback, right side yard setback,

combined side yard setback, and lot coverage be and the same are hereby granted subject to such further governmental approvals as may be required by law and subject to the following:

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

Resolution moved by: Comr GEORGE FOUKAS.
Seconded by: Comr VICE-CHRMN GERARD SCORZIELLO.
Affirmed by: Comrs Michael Molner, George Foukas, Roy Noonburg,
Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.

MEETING OF OCTOBER 16, 2019.

RESOLVED by the **ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J.,**
that the application of: RALPH TRAVELLIN
for premises known as: 956 Van Houten Avenue, Block 35.10, Lot 1
be and the same is hereby: GRANTED a use variance for a used car license and for
two uses on one lot.

Testimony concerning the aforesaid application was taken by the Board at its meeting on October 16, 2019. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

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

WHEREAS, the applicant requests use variance approval to add a used car license to the existing gasoline service station and a use variance for two uses on one lot at premises located at 956 Van Houten Avenue, Block 35.10, Lot 1, which premises are located in a B-C zone; and

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

- a. The applicant presently has an existing gasoline service station at the site in question;
- b. The applicant is requesting approval for a used car license which is a second use at the site;
- c. The applicant has testified that there will be no car sales at the site; that the used car license is required for the applicant to go to auctions to purchase vehicles and utilize the parts from said vehicles to repair cars;
- d. The applicant proposes no car sales at the site and no signs to indicate any cars "For Sale;"
- e. The applicant has satisfied the positive and negative criteria required for the grant of a use variance;
- 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 since the applicant does repair vehicles at the site and will require parts from other vehicles to repair the same; 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 a used car license to the existing gasoline service station at premises located at 956 Van Houten Avenue, Block 35.10, Lot 1, be and the same is hereby approved and the use variance for two uses on one lot be and the same is hereby granted subject to such further governmental approvals as may be required by law and **subject to the following conditions:**

- A. THAT THERE WILL BE NO CAR SALES AT THE SITE;**
- B. THAT THERE WILL BE NO MORE THAN TWO VEHICLES PER MONTHS PURCHASED BY THE APPLICANT;**
- C. THAT THERE WILL BE NO SIGNS INDICATING VEHICLES "FOR SALE;"**
- D. VEHICLES WILL BE PARKED ON THE NORTHEAST SIDE OF THE**

BUILDING; AND

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

Resolution moved by: Comr VICE-CHRMN GERARD SCORZIELLO.
Seconded by: Comr LOUIS DE STEFANO.
Affirmed by: Comrs Michael Molner, Louis DeStefano, George Foukas,
Vice-Chrmn Gerard Scorziello, and Chrmn Mark Zecchino.