

IN THE MATTER OF THE APPLICATION OF

KEVIN & JENNA CLEARY

**FOR APPROVAL OF BULK VARIANCES
FOR THE PROPERTY LOCATED AT**

**329 WEST GRAISBURY AVENUE
BOROUGH OF AUDUBON, NJ
BLOCK 101 – LOT 17**

**BOROUGH OF AUDUBON
JOINT LAND USE BOARD
RESOLUTION OF
MEMORIALIZATION**

RESOLUTION NUMBER 2026-10

WHEREAS, Kevin and Jenna Cleary, whose address is 329 West Graisbury Avenue, Audubon, New Jersey 08106, hereinafter referred to as the “Applicants”, are the owners of the property located at 329 West Graisbury Avenue, Audubon, New Jersey, which property is designated on the Tax Map of the Borough of Audubon as Block 101, Lot 17, hereinafter referred to as the “Property”; and

WHEREAS, the Applicants were represented by Alena Hyatt, Esquire of Parker McCay P.A., with offices located at 9000 Midlantic Drive, Suite 300, Mt. Laurel, New Jersey 08054; and

WHEREAS, the Property is located in the R Residential Zoning District; and

WHEREAS, the Property consists of an interior lot with dimensions of fifty feet wide by one hundred and fifty feet deep (50’ x 150’), upon which is situate a two-story, detached, single-family residential dwelling with an open front porch; a detached garage; a concrete driveway; walkways; a concrete pad in the rear yard; and associated site improvements; and

WHEREAS, the Property currently includes preexisting, nonconforming conditions, *to wit*: the front yard setback on the Property is 18.08 feet where, pursuant to Ordinance § 113-

382(3)(b)(1), the minimum required front yard setback is 20 feet; and the side yard setback to the detached garage is 1.65 feet where, pursuant to Ordinance § 113-444(2)(a)(2), the minimum required side yard setback to accessory structures is 5 feet; and

WHEREAS, the Applicants propose to demolish the existing garage and concrete apron in front of the existing garage; to remove the 420 square foot concrete slab in the rear yard; and to construct a twenty four foot by twenty four foot (24' x 24') concrete pad upon which would be constructed a detached garage, which would have dimensions of sixteen feet by twenty-four feet (16' x 24'), and the remaining portion of concrete slab adjacent to the garage, with dimensions of eight feet by twenty four feet (8' x 24'), would be improved with a roof to provide for an open porch area adjacent to the proposed garage; and

WHEREAS, the Applicants' proposed construction requires bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) permitting a 1.65 foot side yard setback to the accessory structure where, pursuant to Ordinance § 113-444(2)(a)(2), the minimum required side yard setback to accessory structures is 5 feet; and

WHEREAS, Steven M. Bach, PE, RA, PP, CME Engineer for the Joint Land Use Board of the Borough of Audubon, has submitted a report August 7, 2026, which report is incorporated herein by reference, and

WHEREAS, the Application came before the Joint Land Use Board of the Borough of Audubon for Public Hearing on Wednesday, August 12, 2026 with the following members being present: Mayor Robert Jakubowski; Commissioner David Alemi; Chairman David Thompson; Vice-Chairman, Mark Owens; Steve Connelly; Paul Hartstein; James Rossell, Jr.; and Kevin

Moran, along with Steven M. Bach, PE, RA, PP, CME, Engineer for the Joint Land Use Board; Matthew P. Madden, Esquire, Solicitor for the Joint Land Use Board; and Lisa Baumann, Acting Secretary for the Joint Land Use Board; and

WHEREAS, the Applicants submitted with this Application the following upon which the Board relied, in part, in rendering its decision in this matter:

- a. Borough of Audubon Land Development Application dated June 29, 2026.
- b. Escrow Agreement.
- c. Garage rendering, architectural plans and specifications prepared by 84 Lumber consisting of eleven (11) pages.
- d. Property Survey prepared by Richard S. Humphries, PLS of Walter H. Macnamara Assoc., Inc. entitled "Survey of Premises No. 329 W. Graisbury Ave, Audubon Borough, Camden Co., New Jersey" dated May 13, 2015.
- e. Property Survey annotated with items Applicant intends to demolish and remove from the Property.
- f. Property Survey annotated with location and dimensions of proposed garage and adjacent open porch. Property Deed dated November 17, 2015.
- g. Photographic rendering of proposed porch.
- h. Proofs of Service and Publication of Public Notice.

WHEREAS, the Board duly considered the application in detail; and

WHEREAS, at the time of the public hearing on the application, the Applicant's counsel submitted additional exhibits which were duly marked and entered into evidence as follows:

Exhibit A-1: Aerial photograph of Property and surrounding area.

Exhibit A-2: Eight (8) color photographs of Audubon properties with detached garages with reduced side yard setbacks.

Exhibit A-3: Photographic rendering of proposed garage-adjacent open porch.

WHEREAS, appearing at the public meeting to testify on behalf of the application were the Applicants, Kevin and Jenna Cleary, who were each duly sworn and testified and responded to the questions from the members of the Joint Land Use Board and Board Professionals; and

WHEREAS, testimony was taken from the Applicants regarding the application, with such testimony being provided as follows:

1. The Applicants intend to demolish the existing garage, which is in poor condition, and to remove the 420 square foot concrete pad in the rear yard of the Property and to construct a new detached garage which shall include an open porch on its interior side.
2. The existing garage is set back 1.65 feet from the side Property line and the Applicants propose to maintain that 1.65-foot setback.
3. Despite the Applicants' efforts to maintain the garage, the existing garage is in very poor shape, the concrete slab on which the garage sits has deteriorated beyond repair; the roof to the garage leaks; one of the garage doors has fallen off; and the garage is generally beyond repair.
4. The Applicants purchase the home, which was built in the 1930s, in 2015 and the garage looks like it was built shortly after the home.
5. The new garage will be wood framed, have vinyl siding which will match the colors of the home; will include an eight-foot (8') overhang, which the Applicants intend to use as an open porch; and, notwithstanding the depiction on the garage plans, will have horizontal siding which will match the siding on the home.
6. While the existing garage does not match the home, the new garage will match the home architecturally.

7. The Applicant does not intend to use the garage for living purposes but will use it for storage of lawn equipment and other home maintenance equipment and household items.
8. If the Applicants were required to comply with the side yard setback requirement, the new garage would not line up with the driveway and would fall closer to the middle of the yard.
9. Many neighboring properties have garages with a reduced side yard setback, as depicted on Exhibits A-1 and A-2.
10. The new garage will maintain the existing 1.65 foot setback, but that reduced setback will continue back further toward the rear of the Property for approximately seven (7) additional feet.
11. The Applicant will install gutters on the side of the garage which encroaches into the setback and ensure that the downspouts for that gutter are directed toward the interior of the Property, as opposed to the adjacent property.
12. The proposal will involve the removal of the 420 square foot concrete slab in the rear of the Property and the Property will be well below the maximum permitted impervious coverage as a result.
13. The Applicant believes that the proposal advances purposes I of the Municipal Land Use Law to promote a desirable visual environment through creative development techniques and good civic design and arrangement.
14. In light of the existing side yard setback nonconformity and the existing garages existence in the present location for years, the Applicant does not believe there will be any detriment to approving the variance sought.

15. In light of the proposal advancing the purposes of the MLUL and there being little to no detriment resulting from the variance, the Applicant contends that the benefits in granting the variance substantially outweigh any perceived detriments.

16. The Applicants are confident that the requested relief may be granted without there being a resulting substantial detriment to the public good or substantial impairment of the zone plan and zoning ordinance.

WHEREAS, the meeting was opened to the public and, there being no members of the public who appeared to question the Applicants or provide comments on the application, the public portion of the hearing was duly closed; and

WHEREAS, the application was reviewed and discussed at length at the meeting; and

WHEREAS, upon Motion duly made by David Thompson and seconded by Mark Owens with respect to the approvals sought and described herein, the Joint Land Use Board of the Borough of Audubon unanimously approved the application by a vote of eight in favor and zero opposed (8-0) based upon the sworn testimony of the Applicants, the Applicants' submission materials and the conditions as set forth above and hereafter.

The voting on the application was as follows:

Mayor Jakubowski:	Yes
Commissioner Alemi:	Yes
David Thompson:	Yes
Mark Owens:	Yes
Steve Connelly:	Yes
Paul Hartstein:	Yes
James Rossell, Jr:	Yes
Kevin Moran:	Yes

NOW THEREFORE, The Joint Land Use Board of the Borough of Audubon makes the following findings of fact and conclusion of law, to wit:

1. The application and public notices are in proper order as required by statute and ordinance.
2. The Applicants are the owners of the Property and, thus, have standing to pursue the variance relief described herein.
3. The Applicants seek bulk variance relief from Ordinance § 113-444(2)(a)(2) permitting a side yard setback to an accessory structure of 1.65 feet where a minimum of five feet (5') is required.
4. The Applicants have demonstrated the requisite proofs in accordance with the Municipal Land Use Law and the Borough of Audubon land development ordinance for the granting of the bulk variance relief described herein.
5. The Applicants have demonstrated the requisite proofs in accordance with the Municipal Land Use Law and the Borough of Audubon land development ordinance for the granting of the bulk variance relief described herein.
5. Specifically, the Applicants have demonstrated that the proposal benefits the general welfare in that it advances purpose I of the Municipal Land Use Law and that the benefits in granting the requested relief substantially outweigh any detriments; and that the granting of such variance relief will not substantially impair the intent and purpose of the zone plan and zoning ordinance and that the granting of same will not operate as a substantial detriment to the public good.
6. The Applicant's testimony, as set forth above, is hereby incorporated in these findings of fact.

7. The Joint Land Use Board of the Borough of Audubon grants approvals for the bulk variance and the construction of improvements as described herein and in the Applicants' submissions to the Board, testimony and exhibits.

NOW THEREFORE BE IT RESOLVED that the application of Kevin and Jenna Cleary for bulk variance approval as described herein is hereby approved as noted above.

BE IT FURTHER RESOLVED that the approval is expressly conditioned and contingent upon (a) the Applicants complying with all testimony, submissions and representations made at the time of the public hearing; and (b) the Applicants obtaining any and all necessary permits and outside agency approvals.

BE IT FURTHER RESOLVED that the Applicants comply with all the other terms and conditions of the Zoning Ordinance and Building Code of the Borough of Audubon, and the Statutes of the State of New Jersey.

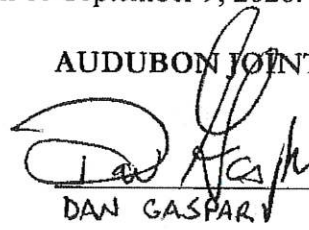
BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Applicant following its adoption.

The foregoing is a true and memorializing resolution adopted by the Borough of Audubon Joint Land Use Board and is in accordance with its decision at its regular monthly meeting of August 12, 2026.

The effective date of this Resolution shall be September 9, 2026.

AUDUBON JOINT LAND USE BOARD

Dated: September 9, 2026

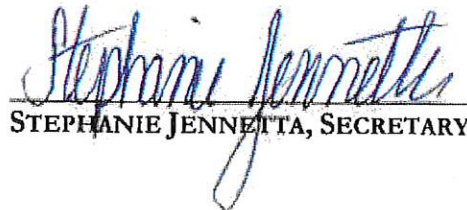
A handwritten signature in black ink, appearing to read "Dan Gaspari", is written over a horizontal line.

DAN GASPARI, ACTING-CHAIRMAN

CERTIFICATION

I hereby certify that the foregoing resolution is a true memorialization of the Joint Land Use Board hearing on this application held on August 12, 2026, as memorialized by the Joint Land Use Board of the Borough of Audubon at the regular meeting of the Joint Land Use Board held on September 9, 2026.

Dated: September 9, 2026

A handwritten signature in blue ink, appearing to read "Stephanie Jenetta", is written over a horizontal line.

STEPHANIE JENETTA, SECRETARY