

RESOLUTION OF APPROVAL
APPLICATION OF
BD REAL ESTATE ADVENTURES, LLC

IN THE MATTER OF	: UNIFIED PLANNING/ZONING BOARD
BD REAL ESTATE ADVENTURES,	: BOROUGH OF SEA BRIGHT
LLC	: APPLICATION NO. 2024-02
	: BLOCK 12, LOTS 1 & 2
	: 1124-1132 OCEAN AVENUE

WHEREAS, BD REAL ESTATE ADVENTURES, LLC. has requested amended preliminary and final site plan approval with variance relief pursuant to N.J.S.A. 40:55D-70 (c)(1) and (2) to modify the site plan to have one combined restaurant site with courtyard on the property located at Block 12, Lots 1 & 2 on the tax map of the Borough of Sea Bright, being commonly known as 1124-1132 Ocean Avenue, Sea Bright, New Jersey, and said premises being in the B-1 Central Business Zone; and

WHEREAS, the Board held a public hearing on said application on February 27, 2024; and

WHEREAS, the applicant provided adequate notice of the hearing in accordance with N.J.S.A. 40:55D-12; and

WHEREAS, the applicant was represented by counsel, Rick Brodsky, Esq., who presented the Application; and

WHEREAS, the Board heard the testimony and evidence presented by the applicant, applicant's witness and received no comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Unified Planning/Zoning Board of the Borough of Sea Bright, County of Monmouth and State of New Jersey, made the following findings:

1. The Board found the application complete.
2. Based upon the opening comments of the Applicant's counsel, the Board heard the following:
 - A. The Applicant proposed to modify the plan to combine the site into one integrated restaurant with courtyard, where there are currently two separate restaurant units on each lot. The only building footprint expansion proposed is the vestibule addition noted on the plans.

- B. Variance relief was requested for building coverage where 50% is permitted, 55.3% is existing and 57.2% is proposed; and off street parking where no parking is proposed/existing and 30 spaces are required for Lot 1 and 114 spaces are required for Lot 2. Applicant sought re-approval of the variances previously existing and not modified by the application for (Lot 1) lot area, lot width, lot depth, rear yard setback, building coverage, lot coverage, and parking; (Lot 2) rear yard setback and parking.
3. The following were submitted in support of the Application:
- A. Zoning Denial by Mary Tangolis, Zoning Officer, dated 11/17/23
 - B. Certified Planning/Zoning Board Application
 - C. Survey of Property, by Morgan Engineering, dated 8/17/23 (1 sheet)
 - D. Architectural Plans (3 sheets) by Condouris Architects (dated 1/3/24)
 - E. 2/21/24 Board Engineer Report of David J. Hoder, P.E.
4. Based upon the sworn testimony of the Applicant's Principal Eric Daley, the Board made the following findings of fact:
- A. He is a Principal/Owner of Applicant BD Real Estate Adventures, LLC. The Applicant is the owner of Lot 2 and Applicant has a 20-year lease to occupy Lot 1.
 - B. Applicant (or affiliated entity) will be the owner/operator of the restaurant to operate on the proposed integrated site.
 - C. The subject property is located in the B-1 Central Business Zone.
 - D. There is an existing restaurant unit on each of the lots with courtyard on Lot 2. The site is currently vacant but previously housed Yolk's restaurant on Lot 1 and Rory's restaurant on Lot 2.
 - E. The Applicants' intent per the architectural plans submitted is to modify the site to utilize same as one integrated restaurant/bar with outdoor courtyard seating.

- F. He indicated that the vestibule area addition is intended for a host station for patrons entering the restaurant.
 - G. The concept for the integrated restaurant would be to provide a more formal dining setting in the Lot 2 side dining room/bar while providing a more casual setting/menu in the courtyard and Lot 1 side dining room/bar.
 - H. The rear room identified on the floor plan is intended as a "speak easy" type lounge/bar area.
 - I. He testified that deliveries will be made from Surf Street at a door located near the location of the walk-in box depicted on the plans.
 - J. He testified that garbage will be housed in an interior refuse room (approximately 11' by 11') in the area on the plans identified as "existing kitchen" in the Lot 1 side of the building. Applicant agreed to modify the architectural floor plans to delineate the refuse room with exterior door location (Surf Street side of building on Lot 1).
 - K. He testified that there will be no access to the Lot 1 portion of the building from the courtyard. There will be patron access to the Lot 1 portion of the building via doorway entrance on Ocean Avenue as depicted on the plans.
 - L. Applicant agreed as a condition that any music (live or via speakers) shall comply with the Borough's noise/curfew ordinance.
 - M. He opined that there will be no negative impacts created by the application for amended site plan approval and that the benefits of the amended plans, outweigh any detriments.
5. Based upon the sworn testimony of the Applicant's Architect Anthony Condouris, the Board made the following findings of fact:
- A. He is a licensed architect in the State of NJ and prepared the architectural plans submitted to the Board for review/approval.
 - B. The property is located on the west side of Ocean Avenue between New Street and Surf Street.
 - C. It is the current location of two restaurant units, one on Lot 1 (formerly Yolk's restaurant) and one on Lot 2 (formerly Rory's restaurant).
 - D. The applicant owns Lot 2 and has a 20-year lease for Lot 1. The proposal is to combine and integrate the building and courtyard for one restaurant use.

- E. Sheet A-1 of the plans provides the site plan proposed for the integrated restaurant use with outdoor courtyard.
- F. Sheet A-2 of the plans provides the proposed renovated floor plan for the integrated restaurant use. The Lot 1 side of the building provides for dining room/bar and bathrooms that will house the casual pub style portion of the restaurant. The courtyard will similarly provide for a casual atmosphere and menu with tables and bar and designated bathrooms accessed only via the courtyard as depicted on the plans.
- G. The Lot 2 side of the building (Sheet A-2) provides for the vestibule addition proposed which will house the host station. This dining room/bar area will be a more formal dining room/menu. The rear room is proposed as a “speak easy” type bar/lounge area.
- H. The rear portion of the floor plan (Sheet A-2) identifies the kitchen to remain with walk-in. This kitchen will service both dining rooms and the courtyard. The area of the “existing kitchen” on Lot 1 will be converted to a refuse room/office and connecting hallway from the proposed kitchen to the Lot 1 dining room/bar.
- I. Sheet A-3 of the plans shows the building architectural elevations.
- J. He confirmed the only footprint change proposed by the application is the vestibule addition on Lot 2 which creates a minor increase in building coverage.
- K. Acknowledging that the courtyard bathrooms and proposed refuse room are located on Lot 1, while they service uses that take place on Lot 2, Applicant agreed as a condition that amended approval from the Board shall be required if at any time in the future there is not common ownership/operation (as is existing currently via Applicant’s ownership of Lot 2 and leasehold interest in Lot 1).

- L. He noted that there is a historical plaque dating to approximately 1894 on the Surf Street façade of the building near the rear corner of the building. Applicant agreed as a condition to provide by way of deed restriction for notice to any future owners, that Applicant has agreed to a historical deed dedication reflecting that should any owner of the subject property cease to maintain the plaque as part of the building, then same shall be dedicated to the Borough of Sea Bright, for no additional consideration.
- M. He confirmed that there is no parking provided on site. This is an existing condition that is not being changed. Noting that the only expansion of the building is for the vestibule, he opined that this will cause no detriment to the surrounding neighborhood.
- N. He proposed that the trees in the courtyard would be planted in the ground. If not able to be sustained, they will be replaced with similar plantings in free standing planters.
- O. He noted that the proposed planters at the front of the courtyard are approximately 24" in height.
- P. As to seating, he testified that the plans propose 51 seats in the Lot 1 dining room/bar; 99 seats in the Lot 2 dining room/bar; and 67 seats in the courtyard. He noted this is less than approved for the Lot 2 use via 1999 Resolution for Harry's Lobster House which allowed 70-75 people in the courtyard area and 110 seats in the dining room/bar.

CONCLUSIONS OF LAW:

WHEREAS, after careful deliberation, the Board has determined that the applicant has met the requirements of N.J.S.A. 40:55D-70(c)(1) and (2) with conditions imposed, for the variance relief required and re-approval of variances previously granted/existing for this application for amended site plan approval in as much as the amendments to the plans are an appropriate development of the subject parcel with a permitted use in the Zone;

WHEREAS, after careful deliberation, the Board has determined that the proposal advances purposes of zoning as set forth in N.J.S.A. 40:55D-2 (a) and (i) of the Municipal Land Use Law; and those benefits outweigh any detriment from the proposal; and

WHEREAS, after careful deliberation the Board has determined that the proposed development will not have a substantial negative impact on the neighborhood and will be a benefit in terms of the functional use of the site and improved aesthetics at the site; and

WHEREAS, the Board (noting that despite public notice, no persons appeared in opposition to the application) has determined that the relief sought can be granted without a substantial negative impact to the public good, provided all conditions of approval are satisfied or met; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Sea Bright.

NOW, THEREFORE, BE IT RESOLVED by the Unified Planning/Zoning Board of the Borough of Sea Bright, in the County of Monmouth and State of New Jersey, on the 27th day of February, 2024, upon a motion made by Mr. Leckstein and seconded by Mr. DeSio that the application of BD Real Estate Adventures, LLC, be granted, subject to the following terms and conditions:

1. The applicant shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of February 27, 2024.
2. The applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance.
3. The applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to CAFRA, and the Municipality's and State's affordable housing regulations; and the applicant shall comply with any requirements or conditions of such approvals or permits.
4. The applicant must comply with the Development Fee Ordinance of the Borough of Sea Bright, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.

5. The applicant shall comply with all items set forth in the Board Engineer report dated 2/21/24, unless specifically exempted herein.
6. The applicant shall submit proof of payment of all real estate taxes applicable to the property and payment of all outstanding and future fees and escrow charges, posting of all performance guarantees, if any, in connection with the review of this application prior to and subsequent to the approval of this application.
7. The applicant shall comply with all building, FEMA and fire codes including, but not limited to, entrances and exits.
8. The accuracy and completeness of the submission statements, exhibits and other testimony filed with or offered to the Board in connection with this application, all of which are incorporated herein by reference are specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition, deemed satisfied unless and until the Board determines (on notice to Applicant) of a breach thereof.
9. In the event that any documents require execution in connection with this approval, such documents shall not be released until all conditions are satisfied.
10. The applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvements and other purposes authorized by the MLUL.
11. No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.
12. Applicant shall comply with the following special conditions:
 - A. Applicant shall provide a final lighting plan that shall be subject to the review and approval of the Board Engineer and Board Planner as to size, type, number and location to

insure no negative impacts to the surrounding property owners.

B. Applicant shall provide by way of deed restriction for notice to any future owners, that Applicant has agreed to a historical deed dedication reflecting that should any owner of the subject property cease to maintain the plaque as part of the building, then same shall be dedicated to the Borough of Sea Bright, for no additional consideration. Said deed shall be subject to the review and approval of the Board engineer and Board attorney.

C. Amended approval from the Board shall be required if at any time in the future there is not common ownership/operation for the integrated use of the two lots (as is existing currently via Applicant's ownership of Lot 2 and leasehold interest in Lot 1).

D. Any music (live or via speakers) in the courtyard area shall comply with the Borough's noise/curfew ordinance.

E. Applicant shall modify the architectural floor plans to delineate the refuse room with exterior door location (Surf Street side of building on Lot 1).

13. Publication of a notice of this decision shall be published in the official newspaper of the Board. Such publication shall be arranged by the applicant.

ADOPTED this 27th day of February, 2024 on a roll call upon a motion offered by Mr. Leckstein and a second by Mr. DeSio

ADOPTION VOTE ON ROLL CALL:

IN FAVOR: Mr. Cashmore, Chairman Cunningham, Ms. DeGiulio, Vice Chairman DeSio, Mr. Lawrence, and Mr. Leckstein

OPPOSED: None

MEMORIALIZED this 12th day of March, 2024 on a roll call upon a motion by Mr. Leckstein and a second by Ms. DeGiulio

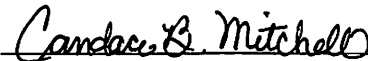
MEMORIALIZATION VOTE ON ROLL CALL:

IN FAVOR: Mr. Cashmore, Chairman Cunningham, Ms. DeGiulio,
Vice Chairman DeSio, Mr. Leckstein, and Mr. Zelina

OPPOSED: None

CERTIFICATION

I, Candace B. Mitchell, Secretary of the Unified Planning/Zoning Board of the Borough of Sea Bright, County of Monmouth, State of New Jersey, do hereby certify the attached is a true copy of the Resolution for Application No. 2024-02 Approved by the Unified Planning/Zoning Board at its regular meeting on February 27, 2024 and memorialized on March 12, 2024.



Candace B. Mitchell

Candace B. Mitchell, Secretary
Borough of Sea Bright Unified Planning/Zoning Board

