

**APPROVED MINUTES
VIRTUAL SPECIAL MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, JUNE 16, 2020, 8:00 p.m.**

ADMINISTRATIVE MATTERS

Call to Order

Chairman Cunningham called the meeting to order at 8:00 p.m. and requested those present to join in the Pledge of Allegiance.

Chairman's Opening Statements

Chairman Cunningham read the following Compliance Statements:

This meeting will be conducted by electronic means in accordance with the "Senator Byron M. Baer Open Public Meetings Act" of 2020, which explicitly permits a public body to conduct a meeting electronically during a state of emergency. Governor Murphy issued Executive Orders 103 and 107 declaring a "Public Health Emergency and State of Emergency" and directing residents to quarantine and practice social distancing.

The Borough of Sea Bright, in compliance with the Open Public Meetings Act, has provided the time, date, and location of this Special Meeting to at least two designated newspapers, published same in the Asbury Park Press, the official newspaper, filed notice with the Borough Clerk, and posted notice on the Borough website and in the Borough Office.

Attendance Roll Call

Present: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Nott, Bills, Wray, Gorman

Not Present: Kelly, McGinley, Smith

Also in attendance: Board Attorney Kerry E. Higgins, Esq.

Board Engineer David J. Hoder

Board Secretary Candace B. Mitchell

ITEMS OF BUSINESS

New Application

PBZB No. 2020-09

1030 Partners, LLC

1030 Ocean Avenue, Bl. 17, L. 4 and

1010 Ocean Partners, LLC, Bl. 17, L. 5

Request to ease certain conditions of Planning Board approval during COVID-19 Pandemic restrictions

In attendance for the application were Attorney Robert F. Munoz, Owner Thomas Bonfiglio, and Manager Tim Selcov.

Board Attorney Higgins stated that she has reviewed the jurisdictional packet and found it to be in good order. The Board accepted jurisdiction over the application, and the following exhibits were entered into evidence:

A-1 Jurisdictional Packet, 6/15/20

A-2 Zoning Denial for Tent, dated 6/5/20

A-3 Plans, prepared by Marc S. Leber, P.E., P.P, dated 4/04/16, rev. 3/8/17, 5 sheets

A-4 First Floor Plan, Sheet A-1, prepared by Steven Raciti, Architect, dated 1/16/15

A-5 Covid Floor Plan, dated 6/16/20

B-1 Board Engineer's Report, Prepared by David J. Hoder, dated 6/5/20, 2 pages

B-2 Ordinance No. 05-2020, regarding outdoor dining, adopted 6/15/20, 2 pages

Thomas Bonfiglio was sworn in to testify. Mr. Munoz asked Mr. Bonfiglio to describe the property's rear area and the plan for outdoor dining. Mr. Bonfiglio stated there would be fourteen tables, 30" x 72", with six seats each, and fourteen tables, 30" x 48", with four seats each. These tables will be placed under a 40' x 80' tent that will have decorative string lights hung on the tent's perimeter. The lights will not be visible at eye level. An additional table will be placed in each of the four cabanas, with six seats each.

Food will be prepared only inside the building. There will be table service, and the servers will wear masks. Disposable menus will be used. Dining will be by reservation, whereby a patron calls to make a reservation, gives their name and cell phone number, and waits in their car to be texted when their table is ready. They will be escorted to the rear dining area via a walkway on the north side of the building. Patrons will not be allowed in the dining area before their table is ready. Patrons will not be allowed to roam or mingle with other patrons. Patrons will be allowed into the building only to use the restrooms. The number of patrons allowed inside waiting to use a restroom will be monitored by an attendant. Rest rooms will be sanitized every thirty minutes.

Mr. DeSio asked whether someone will be out in front of the restaurant to control lingering. Mr. Bonfiglio answered that patrons will not be allowed to linger out front. They will be sent to wait in their car until texted. All dining tables will be moved from the front eating area, and markings will be placed on the floor area to designate distancing.

Mr. DeSio asked that when everything has gone back to normal, how long will it take for the rear area to be put back to normal? Mr. Bonfiglio answered that it would take about an hour and a half.

Chairman Cunningham commented that it is better to open the rear area to eating than using the municipal parking lot for dining.

Mr. Cashmore asked whether the rear covered patio area will be used as a serving area, and Mr. Bonfiglio answered that the patio will be used as it has been used.

Karolyn Wray commented that we need to help our businesses. We need our businesses back.

Mr. Nott raised concerns about people waiting in the front and asked how it can be managed. Mr. Bonfiglio answered that it will not be a problem. Staff will be stationed there.

Ms. Bills asked for clarification about how the patrons will go to the rear yard. Mr. Bonfiglio answered that patrons will be taken to the rear area along the parking lot, or north side of the building.

Board Engineer Dave Hoder asked whether there are flaps on the tent. Mr. Bonfiglio answered that there are no flaps or sides on the tent, that there will be decorative lighting only, and dining will end at 10:00 p.m.

Ms. Gorman commented that the photos posted online look amazing and asked whether Mr. Bonfiglio will follow the current 100 people limit. She stated that as of June 2nd, the number allowed will be 250.

Chairman Cunningham asked whether Mr. Bonfiglio plans on keeping the seating number as proposed this evening? Mr. Bonfiglio answered that, yes, there will be 140 seats under the big tent.

Ms. Higgins asked for clarification on the number of seats in the cabanas. There will be six seats per cabana times four cabanas. She asked whether Mr. Bonfiglio will not exceed the numbers previously approved. Mr. Bonfiglio stated that he will stick with the number approved previously.

Ms. DeGiulio commented that it is a nice plan because people will not be dining in the parking lot.

Mr. Nott asked how restaurants are going to maintain crowd control. Mr. Bonfiglio stated that Xs will be marked on the ground at intervals so that the staff can easily tell the status.

Public Comments

Pam Ross, 6 Peninsula Avenue, asked who will monitor complaints and thinks there will be a lot. Mr. Munoz answered that dining will wind down after 10:00 p.m. Councilman Leckstein added that the ordinance specifies all patrons must be off the premises by 10:00 p.m., and all clean-up finished by 10:30 p.m.

Pam Ross asked how this all happened so quickly. Attorney Higgins responded that a permit was applied for. Chairman Cunningham added that the application came before the Board.

Mr. Cashmore asked whether Mr. Bonfiglio used a professional tent company and asked, "what about wind?" Mr. Bonfiglio answered that the tent will be inspected by the town's inspector.

JoAnn Kalaka Adams, 4 Peninsula Avenue, asked who will control the outside. How is Mr. Bonfiglio controlling the number allowed? Mr. Bonfiglio answered that the sidewalks will be marked in accordance with social distancing guidelines. Ms. Kalaka-Adams suggested posting a sign stating "Full" to prevent too many people from gathering. Mr. Bonfiglio stated that they are asking people to stay in their cars until texted, and Ms. Higgins restated the answer.

Councilman Leckstein asked whether people will be served only at their tables. "How about people walking around? Will they be served?" Mr. Bonfiglio had said that people will not be allowed to walk around.

Ms. Kalaka-Adams asked about monitoring the front, and Chairman Cunningham reiterated that people will be asked to stay in their car.

Ms. Higgins commented that we all have to realize this is temporary. It's to help our businesses get a punch-start back during unprecedented times. We need to help our businesses and their employees. It is for a short term.

Chairman Cunningham stated that he agreed 100%. It is important to know that we need to consider requests from all restaurants.

Vice Chairman DeSio stated that we just need to address this application this evening.

There were no additional comments or questions.

Councilman Leckstein offered a motion to approve the application.

Attorney Higgins stated the conditions which are to be stated in the resolution, including that the rear yard of the property is preferable for dining than using the parking lot for dining. She stated the number of tables and seats allowed, and stipulated that seating capacity will not exceed previously approved seating capacity; patrons will not congregate while waiting to be seated and will be brought back to the dining area after they have received a text telling them their table is

ready. Patrons will not be permitted to roam. Entry to the building is for restroom use only. Restrooms will be disinfected every thirty minutes. The restaurant will abide by the terms of Ordinance No. 05-2020, whereby service must end at 10:00 p.m. and the area cleared by 10:30 p.m. There will be no music, no dining in front of the restaurant, and crowd control measures will be the responsibility of the staff. This temporary waiver of original conditions is granted until indoor dining resumes.

Ms. DeGiulio seconded Councilman Leckstein's motion, and the motion was carried upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Nott, Bills, Wray, Gorman

Nays: none

Absent: Kelly, McGinley, Smith

Memorialization of Resolution

Board Attorney Kerry E. Higgins, Esq. read the resolution into the record.

**RESOLUTION OF THE SEA BRIGHT UNIFIED PLANNING BOARD
GRANTING TEMPORARY WAIVER OF CONDITIONS OF SITE PLAN APPROVAL
DUE TO COVID-19 PANDEMIC
RE: 1030 PARTNERS LLC
1030 OCEAN AVENUE
BLOCK 17, LOT 4**

WHEREAS, 1030 Partners, LLC, owner of the premises commonly known as 1030 Ocean Avenue, Block 17, Lot 4, Sea Bright, New Jersey has applied to the Unified Planning Board for a temporary waiver of Condition Number 4 & 5 imposed by the Resolution Granting Amended Site Plan approval memorialized May 2017 in order to permit outdoor dining in the rear portion of the premises; and

WHEREAS, the Applicant has provided due notice to the public and all surrounding properties as required by law, has caused notice to be published in the official newspaper in accordance with N.J.S.A. 40:55D-1 et. seq., and in accordance with the Senator Byron M, Baer Open Public Meetings Act" of 2020, this Board gaining jurisdiction therein and a public hearing having been held on this matter at the meeting conducted by electronic means on June 16, 2020, at which time all persons having an interest in said Application were given an opportunity to be heard, and

WHEREAS, the Applicant appeared and marked into evidence certain documents including the following:

- A-1 Jurisdictional Packet
- A-2 Zoning denial
- A-3 Site Plan prepared by East Point Engineers dated 4-4-16, revised to 3-8-17. Consisting of 5 sheets
- A-4 Architectural Plans by Stephen Raciti dated 11-16-15 with mark-up showing proposed exterior seating area.
- A-5 Backyard seating plan with annotations 6-16-20

WHEREAS, the Board marked into evidence the following:

- B-1 Review letter from David Hoder, Board Engineer d05-2020 Outdoor dining

WHEREAS, the Robert Munoz Esq. appeared on behalf of the Applicant and presented testimony for Thomas Bonfiglio, representative of Applicant; and

WHEREAS, members of the public were given the opportunity to be heard regarding the Application and Pamela Ross and Joanne Kalaka Adams appeared and asked questions; and

WHEREAS, the Board having considered the evidence presented, made the following findings:

1. The owner of lot 4 is 1030 Partners LLC. The Applicant previously received amended site plan approval for a restaurant with outdoor seating in the front and a portion of the rear. The prior resolution is incorporated herein by reference.

2. The prior approval contained certain conditions. The relevant conditions are as follows:

#4. There will be no wait service to the rear yard grove area – no food or drinks will be served in this area. Wait service will not be permitted beyond the previously approved rear dining patio.

#5. No person will be served food unless they are seated at a dining table in permitted dining areas or seated at a permitted bar.

3. As a result of the COVID-19 Pandemic and the various Executive Orders, all non-essential businesses, including restaurants have been closed for business for approximately 3 months. This has caused a financial hardship for business and employees alike.

4. The Governor has issued an Executive Order allowing outdoor dining under certain conditions, commencing June 15, 2020.

5. The Borough of Sea Bright adopted Ordinance #05-2020 regulating outdoor dining. Such Ordinance allows for “outdoor dining in portions of premises of a restaurant, not previously approved for a sidewalk café license that is located in a front, side or rear yard of the restaurant premises; provided, however that the use of such area for dining has not previously been denied by the Borough Council or Planning Board...”

6. Thomas Bonfiglio testified that he has adequate area in the rear portion of his premises for outdoor dining, however he is restricted from using same by the conditions set forth in the prior resolution as set forth above. He stated that his only other alternative would be to place dining tables in his parking area.

7. The Board found that the parking area located on lot 5 was not appropriate for outdoor dining. It would be hazardous for patrons and would negatively impact the parking conditions in the Borough. It would not be in the best interest of Sea Bright to eliminate parking spaces.

8. Bonfiglio testified that he proposed to place a 40 x 80' tent in the rear portion of lot 4. The tent would fit 14 tables measuring 30" x 72" with 6 seats and 14 tables measuring 30" x 48" containing 4 seats. Additionally, tables with seating for 6 will be placed in the existing cabanas. The Applicant **STIPULATED** that the seating capacity will not exceed the previously approved seating capacity.

9. Mr. Bonfiglio described the procedure where patrons come and give their names and mobile phone numbers. They are given an approximate waiting period and encouraged to wait in the cars or open areas. They will be texted when their table is available. Patrons will then be brought to the rear dining area via a walkway on the north side of the building. No one will be permitted in the rear dining area until their table is ready. They will not be permitted to roam or mingle in the rear. Entry to the building will be for restroom use only. There will be an attendant at the restroom to regulate the number of persons. The restroom will be disinfected every 30 minutes.

He further described the lighting as decorative type string lights which will not be visible from eye level. They will located under the flap area of the tent and strung across the tent.

10. The Applicant **STIPULATED** that it will abide by the terms and conditions contained in Ordinance #05-2020, including but not limited to ending all service to the area ending at 10:00 p.m. and the area cleared by 10:30 p.m. and no live or recorded music.

11. The Applicant **STIPULATED** that it will place markings on the front floor area designating appropriate social distancing. The Applicant testified that all dining tables will be removed from the front area and there will be no dining service in this area. The staff will control the crowds gathering in the front.

12. The Applicant **STIPULATED** that the relief requested, the temporary waiver of conditions #4 & 5, will end once full indoor dining capacity is restored.

13. The Board finds, after evaluating all of the evidence and testimony that the temporary waiver of the conditions is warranted. The Board found that these are extraordinary and unprecedented times and that it is crucial to the viability of Sea Bright that its businesses be given the opportunity to recover from the restrictions imposed by the Pandemic.

14. The Board finds that the temporary use of the rear portion of this very deep lot is appropriate and warranted with restrictions and stipulations placed on the record.

NOW THEREFORE BE IT RESOLVED, that the Unified Planning Board of the Borough of Sea Bright, based upon the findings of fact set forth herein, that a temporary waiver of Condition Number 4 & 5 imposed by the Resolution Granting Amended Site Plan approval memorialized May 2017 in order to permit outdoor dining in the rear portion of the premises be approved subject to the following conditions:

GENERAL CONDITIONS

1. 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.

2. The applicant must obtain the approval of all necessary and appropriate governmental agencies and compliance with all applicable governmental regulations, including but not limited to CAFRA, except those specifically waived or modified in this Resolution.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits.

4. 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 and specifically relied by the Board in granting this approval. This condition shall be a continuing condition, which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach thereof.

5. All stipulations agreed to on the record, by the applicant.

6. In the event that any documents require execution in connection with the within approval, such documents shall not be released until all of the conditions of the approval have been satisfied unless otherwise expressly noted.

7. 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.

8. The Applicant shall furnish such Performance Guarantees and/or Maintenance Guarantee as may be required pursuant to the MLUL and the Sea Bright Ordinances.

9. 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.

10. No mechanicals will be located in the setbacks other than as specifically approved.

11. The temporary waiver of Conditions #4 & #5 shall cease upon the rescission of the restrictions on indoor dining and upon restoration of full indoor dining capacity.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Unified Planning Board at its meeting of June 16, 2020.

BE IT FURTHER RESOLVED that the Chairman and Board Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution;

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a certified copy of this Resolution to be sent to the Applicant, the Borough Clerk, the engineer, tax assessor and the zoning officer and to make same available to all other interested parties and to cause notice of this Resolution to be published in the official newspaper at the Applicant's expense.

I certify the foregoing to be a true copy of a Resolution by the Sea Bright Planning/Zoning Board memorialized on June 16, 2020.

Candace B. Mitchell

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

Adopted on a roll call on a motion by Chairman Cunningham
And Seconded by Councilman Leckstein

Vote:

Cashmore - Aye	Cunningham - Aye	DeGiulio - Aye	DeSio - Aye
Kelly - Absent	Leckstein - Aye	McGinley - Absent	Nott - Aye
Smith - Absent	Bills (Alt.#1) - Aye	Wray (Alt.#2) - Aye	Gorman (Alt.#3) - Aye

C. Lance Cunningham

C. Lance Cunningham, Chairman

General Public Comments

There being no one in the public wishing to comment, the public portion of the meeting was closed.

CLOSING MATTERS

Meeting Announcement

There being no other business before the Board, the Chairman made an announcement of the next scheduled regular meeting date and time, which is June 23, 2020 at 7:30 p.m.

Adjournment

The meeting was adjourned at 9:17 p.m. on a motion offered by Chairman Cunningham, seconded by Board member Wray, and approved upon a unanimous voice vote by the Board members.

Respectfully submitted,


Candace B. Mitchell
Board Secretary