**Sea Bright, New Jersey**

**Unified Planning Board Minutes**

**March 24, 2015**

**7:30 p.m.**

Vice Chairman Desio called the meeting to order and requested those present to join him in the salute to the Flag.

Vice Chairman Desio read the following statement:

**2.** **OPENING STATEMENT:**

The Borough of Sea Bright, in compliance with the “Open Public Meetings Act” has advertised the date; time and location of this meeting in **The Asbury Park Press** on December 11, 2015 filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office**.**

**3.** **ROLL CALL:**

**PRESENT:**  Cashmore, Desio, Smith, Beer(Alt.#2) Marrone (Alt.3)

**ABSENT:** Cunningham, Leckstein, Long, Nott, Schussheim, Isoldi- Jany(Alt.#1)

**4. Vice Chairman Desio announced that the Michael Chambers 39 Shrewsbury Way application will be carried to the April 28, 2015 meeting without any further noticing.**

**5.** Vice Chairman Desio introduced a motion approving the February 10, 2015 Minutes Seconded by Boardmember Smith and approved by unanimous voice vote.

**6**. **MEMORIALIZATION OF RESOLUTION:**

Boardmember Beer introduced a motion approving the following application.

Board Attorney Kerry Higgins Esq. Read the conditions in the Resolution for the

record.

**RESOLUTION OF THE SEA BRIGHT UNIFIED PLANNING BOARD**

**GRANTING BULK VARIANCE AND SITE PLAN APPROVAL**

**RE: 1030 PARTNERS, LLC**

**1030 OCEAN AVENUE**

**BLOCK 17, LOT 4**

**WHEREAS,** 1030 Partners, LLC, contract purchaser 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 bulk variance and site plan approval to renovate the existing, dilapidated storm damaged structure and to change the use from a mixed use commercial/residential to a single use restaurant on the first floor with dry storage /restaurant office use on the second floor, and associated site improvements. The three “back buildings” previously on the site were severely damaged during Superstorm Sandy and have been removed.

**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., this Board gaining jurisdiction therein and a public hearing having been held on this matter at a regular Unified Board meeting of March 10, 2015, 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 Minor Site Plan prepared by Marc Leber, East Point Engineering, LLC dated 12-17-14 consisting of 4 sheets

A-3 Architectural plans prepared by Anthony Condouris dated 7-25-14

A-4 Survey by James Goddard dated 9-9-14

A-5 Photo

A-6 Photo

A-7 Photo

A-8 Photo

A-9 T& M review letter dated 3-16-15

A-10 Color rendering.

A-11 Photo of existing building from front

A-12 Modified site layout plan, revised to 3-10-15 in handout form

A-13 Color rendering of Modified site layout plan

A-14 Deed of easement with map

A-15 Aerial of site pre-Sandy

A-16 Aerial of site post-Sandy

**WHEREAS,** members of the public were given the opportunity to be heard regarding the Application; and

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

1. The contract purchaser of the subject property is 1030 Partners, LLC. The owner, Rita McKeown Revocable Trust has consented to the application. Prior to Superstorm Sandy, the property was mixed use commercial/residential. The three “back buildings” previously on the site were severely damaged during Superstorm Sandy and have been removed. The existing building is the former post office and is approximately 100 years old.

2. The Applicant seeks site plan approval to renovate the existing, obsolete storm damaged structure and to change the use from a mixed use commercial/residential to a single use restaurant on the first floor with dry storage /restaurant office use on the second floor, and associated site improvements. The structure will be rehabbed to be code compliant, including electrical, plumbing and structure. In the past, some of the support beams had been cut. The renovations will be fully compliant with modern codes.

3. The property is located in the BR Zone. The Application requires “bulk” variance relief to permit:

a. A front yard of 23.19 ft., which is existing where 25 ft. is required,

b. Side yard of 9.94’ which is existing where 15’ is required

c. Total Side yard of .21’ which is existing where 7’ is required

d. Applicant proposes no parking spaces where 135 spaces are required.

4. Tom Bonfiglio, a member of 1030 Partners LLC testified on behalf of the applicant. He described the proposed restaurant to be similar to the Tommy’s Coal Fired Pizza restaurant which they currently operate in Red Bank. He discussed the renovations and confirmed that the second floor would be accessory storage and office use for the restaurant. The Applicant confirmed that the only access to the 2nd floor would be by way of a staircase from the interior of the building. The Applicant **STIPULATED** that the building will be used for 1 use only; that of a restaurant on the 1st floor with the 2nd floor being used for restaurant dry storage and restaurant office only.

5. The Applicant **STIPULATED** that no mechanicals would be located in any setback area.

6. Board members questioned whether the building would be raised above the BFE. The Applicant indicated that the plans did not include raising the structure. The made it a **CONDITION** and the Applicant **STIPULATED** that it would comply with the requirements of the Flood Plain Official.

7. The Applicant explained the operation of the proposed restaurant. He indicated that there would be 195 inside seats, subject to the Fire Officials determination, and 104 outside seats, located in the front and the rear of the building.

The Board questioned why they proposed no parking in the rear when there appeared to be adequate room for same. The Applicant explained that the driveway accessing the rear portion was only 9.94’ at some points and made it difficult to access the rear. The Applicant had concerns about two-way traffic utilizing such a narrow access drive. He also expressed concern that same would be at odds with people dining in the rear and enjoying the river views and being able to walk down and enjoy the river. He had concerns with the pedestrian use being in conflict with motor vehicles.

The Applicant initially indicated that they planned to have outdoor entertainment, including live bands. The Board had major concerns with the proposal and its effect on the neighbors at Nautilus, which is located in close proximity to the proposed outdoor entertainment area. The Applicant did not show the location of the entertainment area on the plans, could offer no testimony as to noise impacts or attenuation. The Application and plans did not show any proposed buffering for this proposed entertainment use. The plans did not include any proposed lighting for this proposed outdoor entertainment area. The Board members also expressed their concerns that this increased use would require additional parking. The Applicant could not provide any evidence as to the occupancy rate of the outdoor entertainment area. Board members indicated that they would not look favorably on the proposal with this outdoor entertainment component.

8. Based upon the concerns of the Board, the Applicant withdrew its proposal for outdoor entertainment. The Applicant **STIPULATED** that it would provide outdoor dining only, limited to the 104 total outdoor seats as shown on the plans.

9. The engineer Marc Leber presented revised or modified site layout plans. The revisions included a 10 x 12 freestanding walk-in refrigeration unit and the trash enclosure was moved to the south side.

Board engineer Flor noted that the ordinance required the walk-in cooler to be moved 5’ from the building. The Applicant **STIPULATED** that the cooler size would be changed to 8 x 15’, would be enclosed and would be flipped lengthwise to keep it as far from the driveway and neighbors as possible. The Board felt it was better to give a variance for locating this accessory structure within 5’ from the building to keep it as far as possible from the neighboring residential use and driveway. The Applicant **STIPULATED** and the Board made it a **CONDITION** that the Applicant submit revised plans for the details of the enclosure/buffer surrounding the walk-in cooler.

The Applicant also **STIPULATED** that the compressors would be located on the roof of the second floor.

10. Lebertestified that although the zoning letter indicated a lot coverage of 77.77%, the actual calculation is 62.75% which complies with the ordinance requirements.

11. Leber testified that no delivery trucks will use the access drive adjacent to the residential use. All deliveries will be from Ocean Avenue and hand-trucked in. The Board made this a **CONDITION** of approval.

12. Upon questioning from neighbors, Leber stated that the compressors would be 100’ from the Nautilus. He stated that the only trucks to use the driveway will be garbage trucks.

13. Leber described that the existing boardwalk would be repaired as needed. Detail of same will be provided to the Board engineer for review and approval. This is a **CONDITION** of approval.

14. The Applicant will provide a 4’ fence along the bulkhead. Detail of same will be provided to the Board engineer for review and approval. This is a **CONDITION** of approval.

15. The architect described the proposed renovations. The Applicant **STIPULATED** that the front of the building will contain a wood panel look as depicted on the plans.

16. Engineer Leber reviewed the T&M report and will comply with the items in Section 5 and 6.1. As to item 7, Applicant will defer to the flood plain official and comply with the requirements of same. As to 9.2, there is no plan to replace the bulkhead. The Applicant **STIPULATED** that it will install a driveway apron type of sidewalk closest to the driveway area.

17. The Applicant will plant street trees along the curb line. This is a **CONDITION** of approval.

18. The Applicant will repair the outdoor seating areas so as to make same free from tripping hazards. This includes repairing the existing pavement as needed. The outdoor seating areas, both front and rear, will be protecting by bollards or planters. This is a **CONDITION** of approval.

19. The rear outdoor seating area will be limited to an area measuring 20’ x 40’. This is a **CONDITION** of approval.

20. Traffic engineer John Jahr testified that there were 529 public parking spaces available for use.. This includes 51 on-street parking spaces as well as the public lot. The Board noted that all of the other businesses also rely on this public parking.

In response to Board questioning as to why the Applicant proposed no parking in the rear, Mr. Jahr noted safety concerns with a one-way driveway accommodating two-way traffic. He also noted safety concerns with parking and patrons mingling in the same area. He envisioned patrons walking in the rear area to enjoy the river views.

Jahr opined that most of the lunch crowd would be people already in Sea Bright, at the beach and beach clubs.

He also stated that with the layout of the rear area and dumpster, only approximately 6 cars could be safely accommodated in the rear. Increasing the parking lot would trigger CAFRA. He stated that CAFRA compliance for parking would render the project non-feasible.

20. Board members noted that the applicant proposes a complete upgrade of the property that was severely impacted by Superstorm Sandy, a major benefit to the public good as it is an investment in Sea Bright’s future.

They also noted that the 100 year old building would be brought into code compliance.

21. The Board also noted that the plan provides adequate light, air and open space.

22*.* Board members noted that the proposal included the removal of the three old buildings that were on the site. Members felt that the plan, with the renovated building promoted a desirable visual environment through creative development techniques and good civic design and arrangement.

The application offers a pleasant and attractive restaurant environment. The structure will be aesthetically-pleasing, and the applicant also intends to upgrade the site. With the withdrawal of the outdoor entertainment component, the Board felt that this was a good use for this site.

The applicant is significantly improving the property, which is located in a prominent location in the Borough. What the applicant intends to create will send a strong signal to the community and visitors that Sea Bright intends to push forward even better following the devastation inflicted by Superstorm Sandy.

23. Though the Board was concerned with the lack of parking, the Board felt that the proposal will present no substantial detriment to the public good. The Board did note that the prime time uses of the restaurant will not be in conflict with the beach use, so that the drain on the public parking lots will not be excessive. The Board noted that the applicant proposes an upgrade of the subject property, which currently features a dilapidated structure in a highly visible area, with a permitted use. The restaurant parking is off-peak from the beach parking.

The Board noted that the use is clearly appropriate for the location, as it is a permitted use.

24. Other than parking, the Board found the requested bulk variances are relatively benign, and pre-existing.

25. The Board noted that the proposal will contribute to the commercial vitality along Ocean Avenue.

26. The Board found that the variances could be granted without any negative impact on the zoning ordinance or zone plan. The proposal is aesthetically pleasing, takes advantage of the river views, improves existing conditions and is a permitted use. The newly renovated building will be building code compliant.

27. The Board found that the granting of the variances will have no substantial detrimental impact on surrounding properties nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance.

**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 the variances requested and the site plan 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.

**SPECIFIC CONDITIONS/STIPULATIONS.**

1. No mechanicals in any setback area.

2. The building will be used for 1 use only; that of a restaurant on the 1st floor with the 2nd floor being used for restaurant dry storage and restaurant office only.

3. Applicant will comply with the requirements of the Flood Plain Official.

4. The Applicant will defer to the Fire Code Official to determine the maximum occupancy for the interior of the building.

5. The walk-in cooler size will be changed to 8 x 15’, will be enclosed and will be flipped lengthwise to keep it as far from the driveway and neighbors as possible.

6. The compressors will be located on the roof of the second floor.

7. The Applicant will submit revised plans for the details of the enclosure/buffer surrounding the walk-in cooler.

8. The Applicant will provide outdoor dining limited to 104 total outdoor seats as shown on the plans. The outdoor dining areas will not extend beyond that as shown on the plans. There will be no outdoor speakers, no outdoor music or entertainment.

9. All deliveries will be from Ocean Avenue and hand-trucked in.

10. The existing boardwalk would be repaired as needed. Detail of same will be provided to the Board engineer for review and approval.

11. The Applicant will provide a 4’ fence along the bulkhead. Detail of same will be provided to the Board engineer for review and approval.

12. The front of the building will contain a wood panel look as depicted on the plans.

13. The Applicant will install a driveway apron type of sidewalk closest to the driveway area.

14. The Applicant will plant street trees along the curb line.

15. There will be no outdoor speakers, no outdoor music or entertainment.

16. The outdoor seating areas will be made free from tripping hazards. This includes repairing the existing pavement as needed. The outdoor seating areas, both front and rear, will be protecting by bollards or planters.

17. The rear outdoor seating area will be limited to an area measuring 20’ x 40’.

18. There will be no outdoor speakers, no outdoor music or entertainment.

**BE IT FURTHER RESOLVED** that this Resolution memorializes the action taken by the Unified Planning Board at its meeting of March 10, 2015.

**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; and

**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.

Adopted on a roll call on a motion by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

and

Seconded by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Lance Cunningham, Chairman

Sea Bright Planning/Zoning Board

I certify the foregoing to be a true copy of a Resolution by the Sea Bright Planning/Zoning Board memorialized on March 24, 2015, 2014.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kathy Morris, Secretary

Sea Bright Planning/Zoning Board

Seconded by Vice Chairman Desio and adopted on the following roll call vote:

Ayes: Beer, Desio

Nays: None

Abstain: None

Absent: Cashmore , Cunningham, Leckstein, Long, Nott, Schussheim, Isoldi-Jany(Alt1), Marrone,

**7.**

**280 OCEAN AVENUE SEA BRIGHT, LLC**

**280 OCEAN AVENUE**

**BLOCK 30 LOT 47**

Rick Brodsky Esq. testified that 280 Ocean Avenue LLC, has applied to the Planning/Zoning Board to consider an application for approval to permit the demolition of one of the two existing buildings (the larger building) located at the southwest corner of the subject property, which was the former location of The Quay Restaurant/Banquet Hall and the construction of a new two story structure with ground floor parking underneath, containing a banquet hall and 3 residential apartments above, with the existing 2 story building located in the northwest corner of the property to remain, which building currently contains 2 residential apartments .

The following professionals appeared and gave testimony

Dr. Smith owner of property

Brian Murphy , Engineer.

John Rey, Traffic Engineer

Vice Chairman Desio made an announcement that this application will be adjourned to the May 12, 2015 regular scheduled planning board meeting without any further noticing.

**8. ADJOURNMENT:** There being no further business before the Planning Board. Vice Chairman Desio made a motion to adjourn the meeting at 10:00 P.M. Second by Councilman Leckstein and approved upon unanimous voice vote.

Respectfully Submitted,

Kathy Morris

Unified Planning Board Secretary