

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, May 14, 2019**

ADMINISTRATIVE MATTERS

Call to Order

Chairman Cunningham called the meeting to order at 7:33 p.m. and requested those present to join in the Pledge of Allegiance.

Chairman's Opening Statement

Chairman Cunningham offered the following Compliance Statement:

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

Attendance Roll Call

Present: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Smith, Bills, Wray

Not Present: Duffy, Long, Nott, McGinley,

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

Board Engineer David J. Hoder

Board Secretary Candace B. Mitchell

Approval of the April 23 Minutes

Councilman Leckstein offered a motion to approve the minutes. Second offered by Boardmember Smith, and approved upon a unanimous voice vote of eligible members.

ITEMS OF BUSINESS

Memorialization of Resolution

**RESOLUTION OF THE SEA BRIGHT PLANNING BOARD/ZONING BOARD
GRANTING MINOR SUBDIVISION APPROVAL
Charles Rooney III and Marisol Rooney
Block 33, lot 2.01**

WHEREAS, the Applicants Charles and Marisol Rooney ("Applicants"), are the owner of certain real property designated as Block 33, Lot 2.01 on the Borough of Sea Bright Tax Map; and

WHEREAS, the Applicant proposes that Block 33, lot 2.01 is to be divided into two fully conforming residential lots as shown on the Minor Subdivision map prepared by Land Control Services, LLC, James B. Goddard, PLS dated 2-26-19; and

WHEREAS, the Block 23, lot 128 located on the east side of Ocean Avenue is not a part of the subdivision application and ownership thereof shall remain with the mother lot; and

WHEREAS, Although no notice is required for a fully conforming minor subdivision, Applicant has provided due notice to the public and all surrounding property owners 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, therefore, this Board has accepted jurisdiction of the application and has conducted public hearing on the matter at its meeting on March 12, 2019, at which time all persons having an interest in said application were given an opportunity to be heard; and

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

A-1 Jurisdictional Packet

A-2 Minor Subdivision Plan prepared for "Rooney" by Land Control Services, LLC, James B. Goddard, PLS dated 2-26-19

A-3 Tax certification

WHEREAS, the Planning Board/Zoning Board of the Borough of Sea Bright held a hearing on March 12, 2019, at which time it made the following findings:

1. The plan proposes subdividing Block 33, lot 2.01 into two fully conforming residential lots in the R-2 zone as shown on the Minor Subdivision Plan prepared for "Rooney" by Land Control Services, LLC, James B. Goddard, PLS dated 2-26-19.

2. The plan shows the subdivision line dissecting an existing secondary residence on the site. The Applicant **STIPULATED** and the Board made it a **CONDITION** of approval that the existing one-story building be removed prior to the perfection of the subdivision. No subdivision plan or deed will be executed by the Board until the removal of the existing secondary building which straddles the proposed subdivision line.

3. It is **STIPULATED** that all construction on the subdivided lots will comply with all zoning, setback, construction, design standards and parking requirements of the Borough of Sea Bright or the Applicant will apply for the requested relief.

NOW, THEREFORE, BE IT RESOLVED by the Sea Bright Planning Board/Zoning Board of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

The Minor Subdivision of Block 32, Lot 2.01 to create two fully conforming lots as set forth above and on the subdivision map referred to above and marked as Exhibit A-2 and incorporated herein, be and is hereby approved by the Borough of Sea Bright Planning/Zoning Board, subject to the noted 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 governmental regulations, including but not limited to CAFRA, except those specifically waived or modified in this Resolution prior to constructing any homes on the property.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits for any homes constructed on the newly created lots.

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 within any setback.

11. Applicant shall perfect the minor subdivision within the time prescribed by law.

SPECIFIC CONDITIONS

1. All construction will comply with all zoning, setback, construction, design standards and parking requirements of the Borough of Sea Bright. The applicant shall comply with all Borough Ordinances relative to construction of any improvements on the lots.

2. The existing one-story building shall be removed prior to the perfection of the subdivision. No subdivision plan or deed will be executed by the Board until the removal of the existing secondary building which straddles the proposed subdivision line.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of March 12, 2019; and

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 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 May 14, 2019.


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

Adopted on a roll call on a motion by Councilman Leckstein and Seconded by Boardmember DeGiulio

Vote:	Cashmore – Yes	Cunningham – Abstain	DeGiulio - Yes
	DeSio – Yes	Duffy - Absent	Leckstein - Yes
	Long - Absent	Nott - Absent	Smith - Yes
	McGinley – Absent	Bills - Yes	Wray – Yes


C. Lance Cunningham, Chairman
Sea Bright Planning/Zoning Board

Memorialization of Resolution

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD
GRANTING MINOR SITE PLAN AND BULK VARIANCE APPROVAL
RE: Fuze Eatery, LLC
1060 Ocean Avenue
Block 16 Lot 6
Sea Bright, New Jersey**

WHEREAS, Fuze Eatery, LLC (the “Applicant”) made application to the Planning/Zoning Board of Sea Bright (the “Board”) for property known as Block 16, Lot 6 on the Tax Map of the Borough of Sea Bright, also known as 1060 Ocean Avenue for site plan approval and bulk variances to for a change of use to operate a restaurant in the former Cork and Barrell Wine & Spirits Store; and

WHEREAS, the Applicant seeks minor site plan approval and bulk variances for parking where 19 on-site parking spaces are required and none are proposed on the fully developed lot; and

WHEREAS, the site, as developed is also deficient in rear yard where 15 ft. is required and 6.6 ft. exists; maximum building coverage where 50% is permitted and 93% exists and maximum lot coverage where 75% is permitted and 93% exists

WHEREAS, Applicant has provided due notice to the public and all surrounding property owners 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, therefore, this Board has accepted jurisdiction of the application and has conducted public hearing on the matter at its meeting on April 23, 2018, 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 Floor plan
- A-3 Packet of 4 photos

A-4 Google map and photo

A-5 Letter from David Hoder, Board Engineer dated 4-16-19

WHEREAS, the Board considered the testimony and evidence presented and the Board makes the following findings of fact and conclusions of law:

1. The Applicant is seeking a change of use to operate a restaurant in the former Cork and Barrell Wine & Spirits Store. Brian Larco testified on behalf of the Applicant. He and his brother Stalin Larco are the only members of Fuze Eatery, LLC. They previously operated a restaurant in Long Branch but were displaced by the redevelopment process. They operate in Monmouth Mall, but wish to go back to operating in a town and many of their customers were from the Sea Bright area.

2. The Applicant will operate a restaurant described as a fusion of American and Latin American foods. He anticipates 3-4 employees on staff at any given time. The approximate hours of operation will be 8 am to 11 pm Sunday through Thursday with expanded hours on Friday and Saturday to 3:00 am . Applicant **STIPULATED** that it would comply with all Sea Bright ordinances with regard to hours of operation.

3. The Applicant stated that there is some parking available on property owned by the landlord behind the building. To the extent possible, the Applicant **STIPULATED** that the employees would park in the rear and not in the municipal parking lot. The Applicant testified that they anticipated that many customers would already be in Sea Bright at the beach and beach clubs. They anticipated a large walk-in customer base and did not believe the restaurant would be primarily a destination restaurant.

4. The Applicant **STIPULATED** that garbage pickup would be at least two times per week, and more if needed to quell odors and rodents. Garbage pickup would be in the rear. The Applicant also testified that they do most of the food shopping themselves and have few deliveries, none of which are via large trucks.

5. At the request of the Board and Engineer, the Applicant **STIPULATED** that it will provide a survey of the property which will also depict the area where the employees will park

as well as the location of the dumpster. No certificate of occupancy will issue until the survey is submitted.

6. The Applicant also testified that they will utilize the existing sign frame and just change the sign face with the Fuze Eatery name and logo. A rendering of the sign shall be submitted to the Board engineer. The new sign will be no larger than the existing and will keep the same characteristics.

7. The Board found that the parking variance could be granted without any negative impact on the zoning ordinance or zone plan. The majority of the downtown relies on the public parking to a great extent. The existing building non-conformities will not be changed. The building has been on this site for many years. The Applicant is not proposing any changes to the exterior of the building with the exception of the sign. The proposed new restaurant is merely a change in use for this space from the liquor store to the restaurant. Accordingly, the Board found that the granting of the variance will have no substantial detrimental impact on the surrounding neighborhood.

5. After evaluating all of the evidence and testimony the Board found that the bulk variances would have no negative impact on the zoning ordinance or zone plan and could be granted with no detriment to the neighborhood.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright that the Application for minor site plan approval with bulk variances as set forth above is approved in accordance with the plans submitted and marked into evidence, 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 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

1. The Applicant comply with all Sea Bright ordinances with regard to hours of operation.

2. To the extent possible the employees would park in the rear and not in the municipal parking lot.

3. Garbage pickup would be at least two times per week, and more if needed to quell odors and rodents.

4. The Applicant will provide a survey of the property which will also depict the area where the employees will park as well as the location of the dumpster. No certificate of occupancy will issue until the survey is submitted.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting April 23, 2019; and

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 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 May 14, 2018.

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

Adopted on a roll call on a motion by Councilman Leckstein and Seconded by Boardmember Smith

Vote: Cashmore – Yes
DeSio – Yes
Long - Absent
McGinley – Absent

Cunningham – Yes
Duffy - Absent
Nott - Absent
Bills - Abstain

DeGiulio - Abstain
Leckstein - Yes
Smith - Yes
Wray – Yes

C. Lance Cunningham
C. Lance Cunningham, Chairman
Sea Bright Planning/Zoning Board

Request for Extension of Approval

PBZB-2017-24, Resolution memorialized 7/8/17

Birdsall – Nyquist

9 New Street, Bl.13, Lot 3

Site Plan and Bulk Variance Approval

Applicant Kevin Birdsall was in attendance to request an extension of approval for the July 8, 2017 resolution which granted site plan and bulk variance approval.

Determination:

Councilman Leckstein offered a motion to grant the request for an extension of site plan and bulk variance approval. Second was offered by Board Chairman Cunningham, and the motion was adopted upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Smith, Bills, Wray

Nays: none

Absent: Duffy, Long, Nott, McGinley

Application carried from 4/9/19

PBZB No. 2019-001

River Street Realty, LLC

4 River Street, Block 15, Lot 4

Type of Application: Preliminary and Final Approval for fully conforming Major Subdivision

In attendance for the application were attorney John B. Anderson III, Esq., of Foss, San Filippo, & Milne, LLC; environmental scientist Patrick C. Lyman, CFM, of Envirotactics, Inc.; and applicant Aldo Frustacci, sole owner of River Street Realty, LLC

Attorney Higgins stated that this matter had been carried from the meeting of April 9, 2019, and no additional noticing had been required.

The following exhibits were entered into evidence:

A-9 Environmental Impact Statement, prepared by Envirotactics, Inc., dated May 2019, consisting of eighteen (18) pages

A-10 Second Technical Review, prepared by David J. Hoder, P.E., P.P., C.M.E., dated 5/10/19, consisting of four (4) pages

A-11 Certification by Absent Member That He Has Examined the Record from 4/9/19 and is Eligible to Vote, signed by Boardmember Stephen Cashmore, sworn and subscribed before Board Attorney Kerry E. Higgins, Esq.

Attorney Higgins re-stated the stipulations of approval of the application: No structures and no setbacks are proposed, a condition of the issuance of Certificates of Occupancy to the individual lots will include the replacement of curbs and sidewalks on River Street and South Street, the plans will reflect the recharge method to the satisfaction of the Board Engineer for each lot, the applicant will preserve the dedication plaque from the school to the extent that they can during the demolition, and give it to the Borough, the applicant will meet all parking requirements, the plans will show the existing water and sewer mains in the streets, grading will be such that all storm water flows to the streets and grading will be

reflected on the plans, and CAFRA approval. The Board would be willing to grant all waivers other than the waiver for an Environmental Impact Statement (EIS,) which has been submitted for discussion at this evening's meeting.

Attorney John Anderson briefly reviewed the application for Stephen Cashmore, who had not been in attendance at the first hearing on April 9, 2019. Mr. Anderson checked to ascertain whether or not Boardmember Cashmore had conflicts with any the redevelopment entities interested in this property, and Mr. Cashmore stated that he did not.

Mr. Anderson summarized the subdivision application, which is for eight conforming lots requiring no variances. He stated that the Environmental Impact Statement has been prepared as required by the Board.

Ms. Higgins asked the Board Engineer, Dave Hoder, whether he had reviewed the EIS, and Mr. Hoder answered that he has addressed the EIS in his second technical review.

Mr. Hoder summarized the EIS and stated that "except for noise and demolition the report states there will be no impact. In regard to noise and demolition (as well as the building of new residences) the contractors will need to provide adequate measures to protect the adjacent community and residents from any negative impacts." He noted that "an environmental expert should be on hand to monitor any contamination, including from building materials (asbestos and other); from spills (previous or current) as well as falling debris or construction hazards," and that "a knowledgeable construction manager can provide insight to allow for the orderly and proper construction of the residences without major impact to the surrounding community."

Patrick Lyman, environmental scientist, was sworn in to testify, stated his credentials, and was accepted by the Board as an expert witness. Attorney Higgins inquired whether the items in Engineer Hoder's 2nd Technical Review, such as noise, damage, and contamination will be monitored by the environmental expert. Mr. Lyman discussed his role in monitoring these concerns.

Ms. Higgins stated that the applicant cannot perfect the subdivision until demolition is completed.

Boardmember Bills asked how long the demolition will take, and Mr. Anderson answered that the time frame is based on the date of the publication of the resolution. This demolition must be done within 95 days of the publication of the resolution granting subdivision approval. Ms. Higgins added that if the applicant needs to ask for an extension, the Board will only consider granting an extension if a delay is the result of an outside agency and not of the applicant.

Board Member Questions and Comments:

Boardmember Smith asked for clarification of the timelines of the procedures. Mr. Anderson offered an answer stating that the approval of the resolution and the publication of the resolution begin the timeline.

Public Questions and Comments:

Kevin Birdsall, 9 New Street, Sea Bright, wanted clarification of the applicant’s time frame. Ms. Higgins answered that within 95 days of the date of the publication of the resolution, the plat must be signed. Chairman Cunningham added that the applicant has 45 days to appeal the Board’s decision.

Aldo Frustacci, the sole owner of River Street Realty, LLC, was sworn in to testify. He consulted with Mr. Anderson, who explained the Board’s demands. The Board cannot sign the plat for recording the deed until the existing building has been removed. Ms. Higgins asked Mr. Frustacci how long he thinks he will need to have the building demolished. He answered, “60 days,” and Ms. Higgins noted that is within the time allowed. Mr. Anderson asked what happens if there are delays, such as, in required external approvals, and Ms. Higgins stated that would be a reason to ask for an extension.

Councilman Leckstein asked whether Board Engineer Dave Hoder could be responsible for retrieving the historical plaque that is set within a cornerstone of the building. Mr. Hoder indicated he will do what he can to see that the plaque is removed safely, if at all possible. This request will be part of the resolution.

Ms. Higgins stated the subdivision must be perfected within 6 months of the publication of the resolution of approval. Boardmember Smith asked whether the 6 month period is extendable. Ms. Higgins answered that, if there are delay problems created by outside agencies, the time period may be extended.

Determination:

Councilman Leckstein offered a motion to approve the application for a fully conforming major subdivision. Second was offered by Boardmember DeSio, and the motion was adopted upon the following roll call vote:

Ayes: Cashmore, Cunningham, DeGiulio, DeSio, Leckstein, Smith, Bills, Wray
Nays: none
Absent: Duffy, Long, Nott, McGinley

New Application

PBZB 2019-006

280 Ocean Avenue Sea Bright, LLC

280 Ocean Avenue, Block 30, Lot 47

Type of Application: Approval for Amended Site Plan and Variances

This applicant requested that the matter be carried to the meeting of June 11, 2019 with no further noticing required.

Councilman Leckstein offered a motion to carry the application, with no further notice, to the June 11, 2019 meeting, with a second offered by Boardmember DeGiulio, and the motion was carried upon unanimous voice vote of all members present.

General Public Questions and Comments:

No one in the public wished to speak.

CLOSING MATTERS

Meeting Announcement:

There being no other business before the Board, the Secretary made an announcement of the next meeting date, which is May 28, 2019.

Adjournment

The meeting was adjourned at 8:13 p.m. on a motion offered by Boardmember DeSio, seconded by Councilman Leckstein, and approved upon a unanimous voice vote by the Board members.

Respectfully submitted,

Candace B. Mitchell, Board Secretary