

APPLICANT: RAYMOND C. LENA
APPLICATION NUMBER: 2021-09
BLOCK: 16
LOT: 3
ADDRESS: 1070 OCEAN AVENUE
ATTORNEY FOR APPLICANT: JENNIFER S. KRIMKO, ESQ.
RESOLUTION NUMBER: 2021-09



**RESOLUTION OF THE UNIFIED PLANNING/ZONING BOARD
OF THE BOROUGH OF SEA BRIGHT
FOR BULK VARIANCE RELIEF**

WHEREAS, BOARD MEMBER, MARC LECKSTEIN offered the following Motion moved and seconded by **BOARD MEMBER LANCE CUNNINGHAM**:

WHEREAS RAYMOND C. LENA, hereinafter referred to as the "applicant" filed an application with the Unified Planning/Zoning Board of the Borough of Sea Bright, (hereinafter referred to as the "Board") seeking the following relief:

The Applicant is seeking approval to maintain existing awnings attached to the South Side of the existing building located on the Property, which awning were installed without the benefit of a prior permit. The awnings serve to decorate and cover the outside dining in that area adjacent to the building

In conjunction with the approval, Applicant seeks bulk variance relief pursuant to NJSA 40:55D-70.c to permit:

1. Awnings attached to a blank wall on a building and not over the opening as the Ordinance (130.72.D(1)(b)) requires that awnings reflect the shape of the opening they relate to.
2. Awnings attached to a building that extend approximately 9 feet off the building face, whereas the Ordinance (130.72.D(1)(d)) mandates that awnings may not extend more than 4 feet off of the same building.

Applicant also expressly makes application for any additional exceptions, waivers, variances, interpretations and other approvals (as same may be further amended from time to time without further notice) and as may be determined to be necessary by the Board during the review and processing of the application.

WHEREAS, the application pertains to premises known and designated as Block 16, Lot 3 on the Tax Map of the Borough of Sea Bright, which premises are located at 1070 Ocean Avenue, Sea Bright, NJ 07760;

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS the Board held a public hearing with regard to the referenced application on the following date, **May 25, 2021**:

WHEREAS, the following items were entered as Exhibits at the hearing which includes but is not limited to; any and all documentation as submitted and appearing on the Sea Bright website (seabrightnj.org) for presentation at the Public Meeting conducted via Zoom with public notice. :

1. Application and Checklist
2. Zoning Denial with Correct Ordinance
3. Survey
4. Photographs
5. Property Tax and Sewer Certification

WHEREAS The Board listened to the Testimony of the following:

1. RAYMOND C. LENA

WHEREAS The Board took Questions from the following member of the Public as to the witnesses presented:

1. NONE.

WHEREAS, The Board took Public Commentary on the Application upon conclusion of the witness testimony as follows:

1. NONE.

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. Applicant placed the awning (which is the alley adjacent to Angelica's Restaurant on the subject property to allow for covered outdoor dining) and was unaware of the necessity of a zoning permit and when the Zoning Officer identified that the awnings needed a variance, Mr. Lena promptly filed this application to rectify that.
2. The awnings have been in place for a minimum of 4 years.
3. There have been no issues or complaints and a 4' awning under the variance would not adequately cover the dining tables in the area.
4. Outdoor dining has become so important, especially during the time of Covid-19 for small business restaurants.
5. This request is for that of a technical variance. The referenced awning is a decorative awning over an alley utilized for a dining space and is not over an opening as would be described in the Ordinance.
6. Pictures of the location confirm it is aesthetically pleasing in alley way and does relate to the building and ambience of outdoor dining which is supported and appropriate for the location.

WHEREAS, In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance

does not substantially impair the intent and purpose of the master plan, zone plan and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- a. Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.
- b. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Borough of Sea Bright.
- c. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

BE IT FURTHER RESOLVED, by the Unified Planning/Zoning Board of the Borough of Sea Bright that the following be and are hereby **GRANTED, as follows**:

In conjunction with the application, the applicant IS GRANTED the following bulk variance relief pursuant to NJSA 40:55D-70.c to permit:

1. An awning attached to a blank wall on a building and not over the opening as Ordinance (130.72.D(1)(b)) requires that awnings reflect the shape of the opening they relate to.
2. An awning attached to a building that extends approximately 9 feet off the building face, whereas the Ordinance (130.72.D(1)(d)) mandates that awnings may not extend more than 4 feet off of the same building.

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. **SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE**

APPLICATION VOTE:

Adopted on a roll call on a motion offered by Board member Marc Leckstein and seconded by Board member Lance Cunningham:

THOSE IN FAVOR: Cunningham, DeGiulio, DeSio, Gorman, Leckstein, Smith

THOSE OPPOSED: None

RECUSED: Cashmore

ABSENT: Bills, Kelly, Schwartz

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion offered by Board member Marc Leckstein and Seconded by Board member David DeSio

THOSE IN FAVOR: Cunningham, DeGiulio, DeSio, Gorman, Leckstein

THOSE OPPOSED: none

RECUSED: Cashmore

ABSENT: Bills, Kelly, Smith, Schwartz

ABSTAINED: none

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Unified Planning/Zoning Board of the Borough of Sea Bright at its meeting on May 25, 2021 and memorialized at the meeting held on July 13, 2021.

Date: July 13, 2021



Candace B. Mitchell
Administrative Officer of the
Unified Planning/ Zoning Board.
Borough of Sea Bright

