

APPLICANT: 1030 LIQUOR PARTNERS, LLC (TOMMY'S TAVERN):
APPLICATION NUMBER: 2022-12
BLOCK: 17
LOT: 4
ADDRESS: 1030 OCEAN AVENUE
ATTORNEY FOR APPLICANT: MARK A. STEINBERG, Esq.
RESOLUTION NUMBER: 2022-12



**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE BOROUGH OF SEA BRIGHT
FOR BULK VARIANCE – SIGNAGE**

WHEREAS, BOARD MEMBER, MARC A. LECKSTEIN offered the following Resolution moved and seconded by **BOARD MEMBER STEPHEN CASHMORE:**

WHEREAS, 1030 PARTNERS, LLC, hereinafter referred to as the “applicant” filed an application with the Zoning Board of Adjustment of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

Applicant is seeking approval for a seasonal 40 x 40 feet aluminum frame fabric tent which exceeds the permitted size of an accessory structure and may occupy more than 35% of the required rear or side yard and will be 1,600 square feet where a maximum of 500 square feet is permitted per section 130-38.D(1)(d) which requires C-2 bulk variance relief: any possible changes to the conditions set forth in the Resolution of this Board dated March 24, 2015 to accommodate the accessory structure; a possible parking variance if needed for number parking spaces which require C-1 bulk variance relief; changes to lighting and front façade from that which was previously approved; and Preliminary and Final Site Plan approval per Section 130-3.B (1)(b); together with any and all other requirements, variance and/or waivers the Board and/or its professionals may deem necessary.

APPLICATION IS AMENDED ON THE RECORD WHEREBY APPLICANT WITHDRAWS IN FULL THE REQUEST FOR SEASONAL STRUCTURE. APPLICANT LIMITS THEIR APPLICATION TO THE SIGNAGE ISSUE AS SET FORTH IN THE ZONING DENIAL OF FEBRUARY 11, 2022. These are to confirm the downlit gooseneck lighting and internally lit signs (type of lighting) which are already installed on building as approved. No change to size or location of sign is requested.

WHEREAS, the application pertains to premises known and designated as Block 17 Lot 4 on the Tax Map of the Borough of Sea Bright, which premises are located at **1030 OCEAN AVENUE;**

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, **September 13, 2022;**

WHEREAS, the following items were entered as Exhibits at the hearing:

- Zoning Denial No. Z2022-013 dated 2/11/22
- Zoning Denial No. Z2022-030 dated 3/30/22
- Application Packet, received 5/3/22
- Location and Topographic Survey prepared by James B. Goddard, Land Control Services and dated 9/9/14, 1 sheet
- Amended Site Plan prepared by Marc S. Lieber, East Point Engineering, LLC and dated 4/22/22, 4 sheets
- Architectural Plans prepared by Urban Tectonics LLC and dated 7/24/21, revised to 3/17/22, 2 sheets
- Board Engineer's Technical Review of the Site Plan Application For an outdoor tent, prepared by David J. Hoder, and dated 5/12/2022

Exhibit entered into evidence at the meeting were as follows:

- A-1: 4 photos taken today, 9/13/22, showing existing signs/lighting

WHEREAS, The Board listened to the Testimony of the following:

MARC C. LIEBER, PE:

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

NONE

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

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. Exhibit A-1 (4 photos) shows the signage. Jim Monteforte, architect, prepared the plans and prepared signs on tower with 3 gooseneck lamps, print on tower, Tommy's "to go", and main sign, 'Tommy's Tavern and Tap' with 5 downlights and downlight gooseneck lighting.
2. The restaurant now has 8 locations so they are trying to make locations branded and similar. Signs are internally illuminated and LED but not turned on, pending approval. Signs are not in alignment with approved plans per zoning denial.
3. The signs were approved size. However, gooseneck lighting was eliminated in both locations on the façade and but the goosenecks over the "Tommys' to go" and goosenecks over the red awning will remain. The two lettered signs (tower and main) light up via internal lighting. No goosenecks on those two areas. The northside sign, which has 'Tommy's" sign with goosenecks will remain as approved.(Ex. A-1 page 2.)
4. Nothing will be placed on southern side of building.

5. Sign has not been assessed for lumens but there are dimmers on the sign should there be any issues. Applicant agrees that **if complaint with intensity of light, they will work with code enforcement officer to reduce lumens on the dimmer** as a condition of approval.
6. For clarification, **David J. Hoder, P.E., P.P., HODER ASSOCIATES** – Plan submitted was not what is out there for construction as hardi-board was installed instead of stucco, which the Board deems appropriate.
7. Board Member **Stephen Cashmore** indicates that a Mural was supposed to be painted on the roll out garage doors, like an ocean but the applicant advises that since they are branding all restaurants similarly, the mural will probably not be installed.
8. No bonding is required and minor inspection fees remain.

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 Board of Adjustment 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 Board of Adjustment of the Borough of Sea Bright that the following be and are hereby **GRANTED**:

APPLICATION IS APPROVED AS AMENDED AND APPLICANT LIMITS THEIR APPLICATION TO THE INSTALLATION OF HARDI-BOARD (installed) AND SIGNAGE wherein gooseneck lighting is eliminated in both locations on the façade but the goosenecks over the “Tommys’ to go” and goosenecks over the main red awning will remain. The two lettered signs (tower and main) will light up via internal lighting. No goosenecks on those two areas. The northside sign, which has ‘Tommy’s” sign with goosenecks will remain as approved.(Ex. A-1 page 2.) Applicant agrees that **if there is a complaint with intensity of light, they will work with code enforcement officer to reduce lumens on the dimmer** as a condition of approval.

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. All Plans must be approved by Township Engineer and Code and Construction Departments for the issuance of Permits;
 - b. MONMOUTH COUNTY PLANNING BOARD;
 - c. FIRE MARSHALL;
 - d. BOARD OF HEALTH;
 - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
 - f. AFFORDABLE HOUSING CONTRIBUTION (ORD. 04-22)
 - g. BOARD OF ADJUSTMENT PLANNER
 - h. BOARD OF ADJUSTMENT ENGINEER
 - i. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
 - j. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING.
 - k. FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARDS'S PROFESSIONALS.
 - l. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.

- (2) SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

APPLICATION VOTE:

Adopted on a roll call on a motion by Board member Marc A. Leckstein, Esq. and Seconded by Board member Stephen Cashmore:

ROLL CALL VOTE: Bieber, Bills, Cashmore, Cunningham, Gorman, Lawrence, Leckstein, Schwartz, DeGiulio

THOSE IN FAVOR: All in favor

THOSE OPPOSED: None

ABSENT: None

ABSTAINED: None

MEMORIALIZATION VOTE:

Adopted on a roll call on a motion offered by Board member Councilman Erwin Beiber and
Seconded by Board member Marc A. Leckstein, Esq.:

ROLL CALL: Bieber, Bills, Cashmore, Gorman, Lawrence, Leckstein, Schwartz, DeGiulio

THOSE IN FAVOR: All in Favor

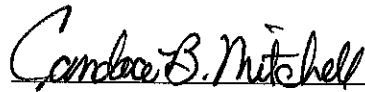
THOSE OPPOSED: None

ABSENT: Cunningham

ABSTAINED: None

I certify the foregoing to be a true copy of the Resolution memorialized by the Unified
Planning/Zoning Board of Sea Bright at its meeting on October 11, 2022.

Date: October 11, 2022



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