

Approved @ 6/20/13
Meeting

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BOROUGH OF RIVER EDGE PLANNING BOARD MINUTES
May 16, 2013

ROLL CALL PRESENT: Ed Mignone, Ellen Busted, Kevin Duerr, Gerard Clarke, David Glass, Eileen Boland, Tom Kyritz, James Arakalian, Mr. Nyman, Mayor Moscaritolo, Robert Costa P.E., Brigitte Bogart Planner Also present Arthur Neiss Esq.

CALL MEETING TO ORDER:

Kevin Duerr called the Planning Board meeting to order at 8:00 p.m.

Salute to Flag

Sunshine Law (Open Public Meetings Act)

Adequate notice of this meeting has been provided by sending notices on December 21, 2013 to the Record and the Ridgewood News. By positioning on the Bulletin Board in the lobby of the Borough Hall and filing a notice of the same with the Municipal Clerk.

Approval of the Minutes April 18, 2013

Mr. Nyman makes a motion to accept the minutes, seconded by Ellen Busted.

ROLL CALL

Councilman Mignone, Mr. Arakalian, Ms. Busted, Mr. Duerr, Mr. Nyman, Mr. Clarke, Mr. Glass, Ms. Boland, Mr. Kyritz – All vote Yes to accept.

2013-04 Mr. & Mrs. O'Donnell, 150 Voorhis Avenue, Block 802/Lot 22 – Remove 293 yards of soil.

Mr. O'Donnell it is going to be about 8 feet. Sump pump in the basement and French Drain around the perimeter.

Bob Costa – I spoke with the architect a couple of days ago and I am OK with it. This is 318 cubic yards. The route is Voohis to Kinderkamack Road and make a right. I submitted that route.

Mayor Moscaritolo makes a motion to accept, seconded by Ed Mignone.

ROLL CALL VOTE

Ed Mignone, Ellen Busted, Kevin Duerr, Gerard Clarke, David Glass, Eileen Boland, Tom Kyritz, James Arakalian, Mr. Nyman, Mayor Moscaritolo – Vote Yes – Motion passes.

SITE PLAN APPLICATION

2013-03 Le & Rao LLC. 474-478 Kinderkamack Road, Block 804/Lots 13 & 14. Proposal for use of premises for restaurant.

Lyn James Lu – is sworn in. (Landlord for the property) 580 Sylvan Avenue, Suite M-E, Englewood Cliffs, NJ 07632

Mr. Barrett Esq. direct questioning of his client. Can you describe the tenant in the mall from north to south of Mazones Pizza (operating hours Monday through Saturday Noon through 8PM, Friday Noon to 9PM, closed on Sunday. Next to that it is vacant. Next is the Water Store, Monday through Friday 9AM-6PM, on Saturday 9AM – 5PM. Next Nick's Bagels open Monday through Saturday 5AM – 3PM. Sunday 6AM – 2PM. Next would be the proposed restaurant of which would fill the three stores. The two stores south of the restaurant are currently vacant, followed by the Nail Salon, which operates Monday through Friday 9:30AM until 7:30PM and Saturday 9AM – 6:30PM, Sunday 11AM -4PM. Next is the Moducie Hair Salon, closed on Sunday & Monday, open Tuesday 10AM – 8PM, Wednesday 10AM – 4PM, Thursday Noon to 8PM, Friday & Saturday 9AM – 4PM. Next to them is the Family Marshall Arts Center, which operates 8:30AM – 8:30PM.

On the level below the street level we have two tenants one of which is called Fashion Accessories, 2 people work there selling costume jewelry, and the Family Martial Arts Center. There is also a dance studio at the backside of the street level.

Mr. Barrett is the jewelry store wholesale or retail?

Mr. Lu – Wholesale only.

Mr. Barrett – If this application is approved, what improvements are you planning on making?

Mr. Lu – If this application is approved we are in the process of (Refer to rendering drawing) the front façade is being changed. Planters will be added. We are in the process of adding an elevator into the building.

Ms. Busted – When you appeared before us we spoke of handicapped parking spots that happen to be in the rear of the building and the elevator would be available.

Mr. Lu – We have also added a handicapped parking space at the southern most part of the building.

Mr. Busted – Is the sign going to be eliminated?

Mr. Lu – We are open to suggestions.

Mr. Neiss – After each witness if it is of the board's approval, perhaps the public, if they have any questions for that particular witness, should ask it following testimony. Does anyone have any questions of this witness?

Barry Wong. The original table count was 126, without the outside seating. Is that still what it is.

Mr. Barrett – We had a meeting with the Site Plan Review Committee, if there is going to be seasonal seating the applicant is prepared to close off the party room. Total seating would be 130. The outside proposal is for 20 seats.

Barry Wong – What are the hours of operation? The proper walkway space for the tables being outside?

Mr. Neiss – I understand your concern, but this witness is not the right person to ask.

Mr. Sadairist – (Spelling) I own the River Edge Diner. I have concern about the parking on both sides. Some people park in my lot everyday.

Mr. Duerr – Your parking is clearly marked, that might be a police problem.

Daniel LaMothe – Engineer, 12 Route 17 North, Paramus, NJ. I have been accepted to testify before many boards throughout Bergen County.

Mr. Barrett – What physical changes are you making to the site? This sheet I will be testifying from is dated 3/13/13 and been revised through April 29, 2012. The coloring you see outlines the proposed restaurant as well as the proposed elevator. Also, is what we propose to the site plan very minimal, We propose re-stripping the loading area in the back as well as construct a new dumpster enclosure. In the front where we propose to construct a new sidewalk barrier free accessible ramp for newly stripped out for handicapped access. The green triangle is for the new monument sign indicating parking in the rear. Around the base of the sign will be seasonal plantings. Also, in the rear of the building is a small concrete island curb with a directional sign. In the outside area we would maintain a 4 foot clear sidewalk area. The site itself is in the C1 Commercial Zone, it has existing site has non-conformities for impervious coverage, side yard and front yard. The site currently has 73 parking spaces with approximately 18 spaces in the front, we propose 17 due to the monument sign and add one to the back, where there are 55 spaces in the rear of the site and we propose 56 in the rear. Based on the zoning code requirement we require 161 spaces 51 for the restaurant.

We propose a new sanitary sewer connection for the restaurant and that would be coming out the front to the sewer main. That was a request by the Borough Engineer and we agreed to do.

Kevin Duerr – Does the board have any questions?

Ed Mignone – You testified about the parking variance, our ordinance requires one space per 150

feet retail. Would you say that is more conservative than other towns?

Mr. LaMothe – Yes. More typical would be 1 for 200 or 250. I did not do that comparison. We propose on the monument sign parking in the rear. If the board feels that one on the buildings is not adequate we could add additional sign that is closer to the road that you could see to give additional notification that there is parking in the rear. That would be before the start of the driveway at the west corner of the lot. An 18 x 24" sign.

Bob Costa – I have never noticed it. Perhaps illumination again it is high enough.

Ed Mignone – The handicapped sign are customers going to be able to see it going south?

Mr. LaMothe – I think so.

Ms. Busted – When you are turning down that driveway whether you are parked in front or you are coming from north or south does the addition of that handicapped spot and the little curb island, what impact does that have if any on traffic going down that driveway or the handicapped spot backing out are we going to have a conflict there?

Mr. LaMothe – It opens this up a little more it moves the parking further north.

James Arakalian – Do you currently have an agreement with your landlord to the north as far as parking along that strip?

Mr. LaMothe – No.

James Arakalian – What is the mechanism that you are going to use to keep the parking for your building on your side and the parking for his building on his side? Let's say a tree falls and you can't get in the back parking lot. Have you even talked about some mechanism so everybody is in agreement here?

Mr. LaMothe – There hasn't been any discussion about it.

Mr. Barrett - We have done buildings that have been there for 60 years and for 60 years they have been fine.

James Arakalian – On the plans, I don't see any additional lighting plans for the back parking lot.

Mr. LaMothe – No additional lighting is proposed in the back, we are going to maintain the existing lighting.

James Arakalian – As an engineer do you feel that the lighting back there is sufficient to make it safe for people to travel the parking lot with that amount of lighting.

Mr. LaMothe – Currently, there is building mounted lights in the back, it has been reviewed by

your engineer prior.

Mr. Nyman – The plans say that everything in the back is going to be re-stripped, with directional arrows.

Mr. LaMothe – we are going to patch the parking lot, seal coat and re-strip the entire parking lot and give it a nice clean look.

Mr. Nyman – As you come up that drive-way I think it is important there are 2 utility poles and they are fully loaded.

Mr. Mignone – According to Mr. Costa's report he also recommended an outdoor grease trap.

Bob Costa – What was said that if by chance this product should not work and they have to put an external grease trap in.

Member – I don't see a detail on the plan that shows Kinderkamack Road curb or the distance from the curb. Are there sufficient site lines when you are going up to get to the top? Can you see traffic coming south on Kinderkamack Road?

Mr. LaMothe – The curb will be at grade and the retaining wall will be determined by the slope going down, it is level with our sidewalk the top of the wall with a railing on top. The bottom of the wall will follow the ramp going down.

Member – How many feet is it?

Mr. LaMothe – 20 feet clear, your whole car will not be passed the island as you make a right.

Mr. Neiss – This is automatic, it doesn't require any maintenance?

Bob Costa – The only thing that it requires to maintain the reservoir on the side, it skims the grease into the reservoir so you have to empty the reservoir.

James Arakalian – Back to the parking, I know that Mr. Barrett said before that this building has been there forever, and typically it has been fully rented with retail. Can you explain to us the difference between a general retail operation in those spots versus a successful restaurant in that spot as far as what kind of parking is going to be truly needed.

Mr. Barrett – We have someone that has done the traffic count, she might be the one to answer that question.

Mr. LaMothe – For this particular site, the lower parking lot has over 50 parking spaces and it is not utilized currently. The smaller retail stores that you speak of would want to be accessed from the front. With the introduction of the elevator and a focus of entrance for the restaurant would be one of the main entrance in the rear, it will help utilize the lower lot.

James Arakalian – It sounds like your main entrance to the restaurant is going to be where the elevator is, correct?

Mr. LaMothe – That's what we are going to try to direct people to do.

James Arakalian – In order to alleviate the issue of the parking up front, what if they were to take the top entrance and not allow entrance from the top?

Mr. Barrett – As a practical matter, as the people become accustomed to the fact that there is parking it will be utilized more and more. It is a matter of educating the folks and we hope that the signage will do that.

Mr. Arakalian – I want them to be successful, the only fear I have is interrupting the other businesses.

Mr. Barrett – You could put a clause in there that if it doesn't work, then the board could say that it can only be accessed through the rear entrance.

Mr. Arakalian – I would agree to that.

Ed Mignone -- Is there any signage on the liquor store side because that parking lot after 6:30PM is empty as well. We can talk about parking all along Kinderkamack Road for days, but the problem is that there is another parking lot to the other property owner and that is also under utilized. There is ample parking back there.

Kevin Duerr- Does anyone from the public have any questions for this witness?

Mr. Barry – The back parking that there was 55 or 56 parking places the addition for the parking in the rear is that just a standard parking spot?

Mr. LaMothe – We ended up redoing a little portion here which ended up minus one and then when we did this portion it ended up that we picked up one.

Mr. Barry – Wouldn't it make more sense to have a lease one handicapped space in the back?

Mr. LaMothe – We would just loose one parking space.

Mr. Costa – They have to provide handicapped up top and in the back van accessible.

Gentleman from the public – How many spots by code are required?

Mr. Mothe – 61.

Beverly – I am from the hair salon. Parking has been an issue for the last 50 years, each store

only has 2 spots and when Extreme Parties was there it was a big issue.

Member of the public – It is a dinning restaurant, you normally spend an hour or 2. (not clear).

Arthur Neiss – This plan is going to be amended for the three additional handicapped spaces that are required for the rear, is that the way it is going to be handled? One additional in the rear. And also the wall, especially on the northern side in the back, my recollection is that it is not a real wall. Who is responsible for that wall? The responsibility for this wall is not this landlord.

Mr. Barrett – Right.

John Montoro, I am President of the Montoro Architectural Group in Saddle River, NJ. I have been an architect for 25 years, I have appeared before 70 or 80 boards throughout the state of NJ, almost every town except this one. Mr. Montoro, is sworn in.

Mr. Barrett – Did you do the plan dated May 10th.

Mr. Montoro – Yes.

This plan is the same plan that was colored when it was first presented earlier this evening. This plan shows a little bit more of the island and the configuration of the island as well as the existing conditions that exist now. I think it is important that everyone understands what the existing conditions are so that you understand what is proposed is being proposed. The existing corner pork chop is not a handicapped ramp. It is concrete pavement that tapers down and somehow at the end somebody decided to smooth it out to make it look like a handicapped ramp. A handicapped ramp cannot come to a point. That is not code it is a backwards way of trying to attempt it to be a handicapped ramp. The second thing that exists now is that the side wall along the south portion of the entrance & exist way is a retaining wall that is not only in disrepair but also it abruptly happens. If someone came and walked across this they would trip and fall. The third thing that exists there is the railing that is existing along that side a child could fall right through it and can fall about 3 feet. If you look at what exists there what we are trying to do there is solve 3 birds with one stone. To create proper access point with a true handicapped ramp push the car over to the side so that makes the condition better and the third point is to get landscaping and planting, which attract people to look there and provide a sign about 4 foot high. The sign does not block any cars from coming out because from the edge of the parking there is another 20 to 25 feet.

The other thing that is important the parking spaces are on an angle. The condition exists that we are loosing one space in the front, but I think the design on everything that we have done here including the architecture is to take this building away from being a continuous strip the whole length of Kinderkamack Road. This will give this building its identity different from the other buildings. It will create a point where if you actually sign this correctly and light it so you can see the parking at night. You will have an illuminated sign with proper coloring on a proper colored background, therefore, people can see it from a distance and that is a safe issue. The goal here was to provide that entrance to the rear and as you are coming north on Kinderkamack

Road something that would say parking in the rear.

If you have driven up and down Kinderkamack Road you know that right now there is a sign saying parking in the rear. The problem is that it is small, it is a sign that is black letters on a brick background. What we have done is took the color of the facade and wrap the facade around the side so we can put lettering that will attract people to want to make the turn and utilize the parking in the rear.

The second thing besides the ground sign, which is for cars coming southbound on Kinderkamack we have also taken the building and the store fronts and taken the existing facade and raised a portion.

We gave the front of the center some life. Besides differences in colors here between the signage and the crown and the molding you will have light and dark. Gray and white crown molding and white trim.

There is less parking than what the code requires. The planner will testify as to overlaps as to parking times and counts. What's to stop now that we provide the signage, what's to stop any of these tenants from the other centers to parking in the rear? They are going to shop the entire center.

We made the outside tables smaller so people can walk by. We also moved the planters to the left of the ballads, because if a car pulls in the will not hit the ballads.

Mr. Nyman - Monument sign that says parking in the rear, one of things I find difficult as I drive down Kinderkamack Road is where the drive-way is will there be an arrow on the entrance so as you driving by you will see it. And the height of that sign is it high enough so you will know where to go?

Mr. Mothe - The sign is 4 feet wide 6 feet high. We could make it a little higher and we could leave the bottom open so if a car is backing out could also see if another car is coming.

Robert Costa - I think it is too high. Your eye doesn't go there. There is a lot of stuff going on in that stripe mall.

Bridget Bogert - (not audible)

Mr. Neiss - I don't get the angle of the sign. It looks to me like the south side is facing the resident.

Mr. LaMothe - There is no lettering on the south side of this ground sign. The elevation from the south, there is nothing on the back because that is covering from the south. The reason it is angled is because as you are driving down Kinderkamack Road that's the angle that you are viewing. This space is a handicapped space so chances that there is a car in there is going to be pretty slim. You have this space is the one that is occupied so there is the end of a car, you have a good view of that sign providing there is not a handicapped car in the way. I do agree with

Ms. Bogert that you should raise it up somewhat so you could see underneath the sign to see if there are any cars that may be coming up the drive-way. I could do something that was attractive just put it on 2 short pilasters just to get it up off the ground.

Mr. Neiss - Does that require a variance.

Ms. Bogert (not audible)

Mr. LaMothe - If the board looks favorably upon this application the owner, myself, planner and engineer would get a mock up made for the site so you can move and you could see exactly what works best. It is one thing to talk about and another thing to see it.

Bob Costa - If we do decide to move in that direction, to the mayor's point I think a few of us would like to know in scale just how far from the edge of Kinderkamack.

Mr. LaMothe - About 15/16 feet to the curb. The sign as it is starts from the tip of the stripping to the sign is about 3 feet back.

James Arakalian - That back parking lot is going to be used strictly for the restaurant. Nobody is going to want to access the other stores in the front. The wording that you have on here maybe it might be better if it said Restaurant Parking in rear that might be more appropriate.

Member - We have no trouble with fire trucks getting down there.

James Arakalaian - The fire trucks go down there on a regular basis to drill, there is no problem.

Mr. Neiss - What is the signage on the rear façade?

Mr. LaMotte - We have not addressed that I would imagine it would probably be illuminated on tracks. I don't know if the tenants want to spend that money in the back, but there is going to be something in the back that is going to say "Entrance to Stores", "Elevator Lobby" Or "Entrance to Restaurant", it would probably be lite by a light.

Kevin Duerr - One would have to assume they would have to be using it now and if they have had no issues with what is there now, it would be more for the Chinese Restaurant to dress it up.

Bridget Bogert - The board can approve the site plan and then come back.

Member - Also, you would have to know how much over you are requesting.

Mr. Neiss - You can't grant a variance.

Bob Costa - The building exists, the only thing is the monument sign it is 3 by 6 feet. You going to have to put that in.

Mr. Neiss - The signage that is on the building now is a preexisting condition, the only variance that would be granted is for the monument sign and the content of the monument sign as well as the other signage would be subject to a later application for signage?

Bob Costa - I think the board can approve the size and the location of the monument if the board desires. There is signage on that building.

Mr. LaMothe - Based on the ordinance there is going to be a certain number of square feet of signage for the entire center. How the tenants and the landlord decide to split it up is going to be up to them or they are going to have to come back for a variance.

Bridget Bogert (not audible)

Mr. Neiss - So everyone is clear I think where the testimony is and where our professionals are at, if the board is of the mind to grant site plan approval based on the application that appears before us, there will be the necessity of a variance for the monument sign, that will be subject to a variance and that will have to be revisited in a separate application. Is that basically what you have arrived at in terms of addressing this issue?

James Arakalian - I think you can grant the variance for the ground sign. It is the other signage that you have to come back for.

Mr. Neiss - Unless we know the extent of the variance the variance is pulled out by the height and the width and the length.

Mr. Costa - The sign is not allowed, so we will need a variance. This monument sign requires a variance. If that is what the board wants that monument sign to direct the people you will need a variance for that sign as proposed.

Mr. LaMothe - I think 3 feet higher would make no sense because that would put it at the railing height, which is 42 inches. Three feet might be reasonable.

Mr. Neiss - Right now according to this it measures 4 feet, 6 inches from grade to the top of the sign.

Mr. LaMothe - Let's say 7 feet tall.

Mr. Neiss - If the board acts favorably on this site plan application that let is be rendered clear, because I am not clear on what we are doing with this variance. If we can just clarify that, at the appropriate time, but I will request that it be clarified so that everyone is on the same page.

Bridget Bogert - The outdoor dining at what point during this process is this going to be discussed? Is this permitted?

Mr. Costa - It is not permitted, we are working on it.

Bridget Bogert - I know this question was presented to the Mayor and Council to review another borough's ordinance to see if we could do that.

Mr. Barrett - Whatever it is we will cooperate.

Mr. LaMothe - To our benefit the plans, as we discussed it in the site plan have changed slightly that there is not going to be a curb cut added. It is going to stay on the existing sidewalk.

Kevin Duerr - Questions from the public.

Councilwoman - steps forward (not audible)

Mr. LaMothe - All of the signs will be individual letters on channel track.

Leo Lee - (Is sworn in) - I am the owner of a Chinese Restaurant, 505 Summit Avenue, Fort Lee, NJ

Mr. Barrett - The new proposal is for 126 seat restaurant. What type of restaurant do you propose.

Mr. Lee - The proposed restaurant is a fine Chinese dining restaurant and they will feature an outstanding and authentic Chinese cuisine. Based on research there is no kind of restaurant like this in the area. We are bringing the neighborhood a new place to enjoy this delicious food.

Mr. Barrett - What are your hours of operation?

Mr. Lee - 7 Days a week from Monday through Thursday 11AM -10:30PM and Friday and Saturday 11AM - 11:30PM. 2 hours break time between lunch and dinner time 3PM - 5PM. Sunday 11AM - 10:30PM.

Mr. Barrett - Based upon your research do you anticipate that your lunch hours or dinner hours will be busier?

Mr. Lee - We do notice that there are not many office buildings in this area so we will be busier at dinner time.

Mr. Barrett - How will you have your products delivered to you?

Mr. Lee - The food supply our storage in on the second floor. What we plan to do we would do is ordering and delivery would be early morning and every day with a small load. We try to minimize a big truck coming in the parking lot.

Mr. Barrett - How would you get deliveries?

Mr. Lee - A small box truck.

Mr. Barrett - How many employees are you anticipating?

Mr. Lee - For the busiest time 10 people.

Mr. Barrett - Do you think they will provide their own transportation?

Mr. Lee - Most all employees will be transported by company van.

Kevin Duerr - When you say 10 employees, waiter staff & kitchen staff.

Mr. Lee - Yes.

Kevin Duerr - Are you going to do take-out?

Mr. Lee - Yes.

Mr. Neiss - How is that going to work, one car, two cars how many delivery cars will you have?

Mr. Lee - We are not sure if we are going to be doing delivery.

Mr. Duerr - 126 seats that includes the restaurant itself and I understand there is a private room off to the side. Each table there are 8 seats. Two tables 16 people.

Mr. Barrett (not audible)

Mr. Duerr - Can we assume that on any given night that we are really looking at a restaurant that accommodates about 110 people because the private room will not be open. What is the name of your restaurant in Fort Lee?

Mr. Lee - Joyce Chinese Restaurant. It is only take-out.

Mr. Neiss - People are going to be coming in through a vestibule. There are two modes of entry into the restaurant, one from the elevator in the rear and in front and this other door off the private room is a emergency exit. The wait staff will come into to kitchen through the door near the ice maker or not?

Mr. Lee - Yes.

Mr. Neiss - This Bain Marie is that a way of keeping dishes warm?

Mr. Lee - We put all the cooking material on there so when the chefs start cooking they have to prepare.

Mr. Neiss - When the chefs are finished cooking where does it go?

Mr. Lee - There is a work table just beside the steam table after this all the work is going to be put on the work table.

Mr. Neiss - A chef using the wok all the way on the top of this drawing when the chef is finished he walks all the way down to the work table?

Mr. Lee - You see the Bain Marie they can put a dish here. Also, for the kitchen lay out, later on when we submit the working permit, we will do a change for the kitchen layout.

Bob Nyman - I see the layout here, there are two adjacent vacant properties, is there anybody interested in those properties? Is there a potential if you are successful you would want to expand further?

Mr. Barrett - There is a lease that has been signed that is contingent upon municipal approval.

Mr. Neiss - The speed at which the elevator moves between floors any kind of issue?

James Arakalian - Will this application be continued upon them getting approval to put an elevator in that building?

Mr. LaMothe - It is under construction.

Lisa Phillips - (Is sworn in) 19 Black Foot Trail, Oakland, NJ with Kenneth Ochob Company. I have a BS Degree in City Planning from Penn State. I have been licensed for 21 years and a professional planner for 27 years. I am the Zoning Board Planner for the Borough of Cliffside Park, Borough Planner for the Borough of Bogota, Zoning Official for the Borough of Hohokus and I represent numerous private developers.

Mr. Barrett - (not audible)

Lisa Phillips - Yes. Ken and I worked jointly on this application. I have gone to the site during the day, Ken went 6PM and 9PM he went last Friday & Saturday night. The photographs are posted on the board. It is a photo exhibit 5 photographs and in the middle a parking count that was done when the photographs were taken. I went to the site twice during a week day and based on the photographs from the evening and based on what I saw during the day, most of the usage is during the day time when the retail operations are in service. The front parking lot was much more utilized more during the morning and afternoon peek then they were in the evening.

He counted the existing parking spaces and the reason that the lower parking lot on that sheet says 50 because there is some encroachments or some kind of machinery that is in some of the spaces in the back. I think there are 50 available spaces right now in that rear parking lot, that is why the numbers might not jive exactly with what the parking is out there right now.

You can see that Friday PM and he even counted the adjoining property upper level only since it

was one contiguous parking area. You can see the differential, the most on Friday was 11 spaces out of the 16 spaces in front of the stores at 6PM. It changed between 8 and 9 spaces and then there was only 4 spaces in the upper lot. In the lower lot it reduced a lot more. The lower lot on Friday at 6PM had 18 6:30PM had 18, 7PM had 16, 7:30PM had 8 and 8PM had 5.

When I was out at the site I was checking the hours of operation and the vacancies to see what type of retail was there. I had met the owner of the Martial Arts and he said even though his hours, at 8:30PM at night he only has 3 or 4 people. On Saturday it was much less the upper parking lot had 3 parking spaces at 5:30PM, 6:30PM - 8:30PM had none.

It is a very similar representation of the adjoining upper lot as well as the evening goes on there is less and less parking there.

Mr. Nyman - The numbers here indicate how many spots are occupied.

Lisa Phillips - Right. When you look at the overall uses here, I checked all of their hours. Only 2 stores are open later.

Member - What is the required parking for the restaurant?

Ms. Phillips - 51 spaces. I did check the Master Plan and it does meet the requirements. It reads "To maintain and upgrade existing commercial areas, to provide a complete range of office, retail and ancillary development, improve where necessary the aesthetic character of the existing commercial developments by employing zoning controls and encouraging building maintenance." "The lack of food establishments throughout the borough is noted. Further, possible food establishment outdoor dining requires some addressing. Currently regulations should be reviewed and new ordinances adopted accordingly."

Kevin Duerr - Backing what Councilman Mignone was saying there is only 3 businesses that utilize this back lot without the proposed restaurant. Currently, it is only the Family Martial Arts, the Hair Salon, & Natural Nails. Everything on the far north is take-out.

Lisa Phillips - The day that I was out there were few cars in the back lot during the day.

James Arakalian - The key to success is getting people to use that back lot. If they will allow for our resolution to include it be revisited on the upstairs entrance. If it becomes a big issue or some sort of issue with the neighbors we could re-visit that. Once that upstairs entrance is closed people will be forced to go down below.

Mr. Duerr - There is only one entrance up above.

James Arakalian - It is irrelevant because I know myself I am going to look for one of those spots up top. People want to go the easiest way in and easiest way out. But, if you force them to go in the back to go into the restaurant it is a preference thing. As long as we can re-visit that I am fine with this.

Bob Costa - It is shared parking now, it's not utilized.

Barry Wong - I believe it is 3 store fronts not 2. What is your criteria for determining take out someone will be rushing in to get their order and gone.

Lisa Phillips - It was taken at the max time.

Barry Wong - I understand the peak time is the evenings. Other times in the area like the bagel store he is open from 5AM to 3PM. What would his peak time be?

Lisa Phillips - I have to address this because this is the use we are coming for. I did look at everyone's hours and looked how they would interact. In terms of the variance I only have to justify the 51 spaces.

Owner of the Dinner was questioning his parking lot.

Mr. Neiss - I think what is happening here sir, the applicant understands that under the borough ordinances the applicant does not have sufficient parking under the ordinance. What these professionals have attempted to do tonight is to convenience the board that even though they don't comply with the actual ordinance requirement based on the evidence that was presented they are arguing to the board that the parking that is there should be sufficient for this restaurant.

Mr. Barrett - I think that all of the testimony points to the fact that there will be adequate parking because of the different hours of operation. The improvements that are anticipated will drive people to the back. The fact that there may be new customers coming, they can certainly be educated. There is adequate parking because of the limited use during the evening hours. Also, the substantial improvements that are being made are better.

Mr. Mignone - How do we handle the outdoor seating? The 20 extra seats are going to require additional parking spaces or do we say it has to be proved the actual number of seats that are in the restaurant itself as total and they can use some for outside. It has to be clear in the resolution.

Mr. LaMotte - The goals that we are working on indicates that no additional parking would be required for outdoor seating because outdoor seating is seasonal only.

Bridget Bogert - I did research on outdoor dining seating and the typical standard is that the outdoor seating is less than 15% of the total seating indoors. It doesn't require any additional parking.

Mr. Neiss - The interior portion of the restaurant on the plans now which I think is 126 tables.

Bridget Bogert - (not audible)

Mr. Neiss - There is no ordinance in this town that says that.

Bridget Bogert - Why don't we say if there is outdoor seating they reduce the indoor seating.

Mr. Neiss - If the board approves is the applicant agreeable to that condition? That the seating shall not exceed 126 seats indoor and outdoor together.

Mr. Mignone - You need to clarify the site plan to say that they will comply with any ordinance that is in affect at the time. You want to approve the number of seats that are inside and any outside will be subject to whatever ordinance is set to what the ordinance is. You can't have it shown on the site plan if there is no ordinance enforcing it. You are showing 20 seats outside.

James Arakalian - I think the real point is if the ordinance is passed and the ordinance doesn't require an additional seat trigger than I think that we don't really need to include that. If we do 126 seats and then the borough adopts this ordinance and the ordinance states that it doesn't require additional seating.

Mr. Neiss - I think we understand that. But I think what councilman Mignone is saying is the site plan that is before you right now, shows that outdoor seating.

Bob Costa - Outdoor dinning is not prohibited so what couldn't this board grant a use variance.

Mr. Barrett - Number 3 is under the parking requirements it is on the site plan (not audible).

Mr. Duerr - I have applicant proposes seasonal outdoor dining..... That's putting a restriction on him which the ordinance may not require.

Member - Even though the site plan says you only moving people from inside to outside, we still don't allow outside dining.

Mr. Neiss - I need to have for my file, I need to have the correct plan.

James Arakalian - I am prepared to make a motion at this time.

Mr. Neiss - I have been taking notes throughout this meeting and I want to make sure that the board understands what the proposed conditions could be or might be and make sure that everybody is clear. I assume it is to approve the application, I just want to be clear.

James Arakalian - Based upon the testimony I have heard and the things I have heard back from the board I would like to make a motion to approve this application with the notes included from our esteemed attorney and also the condition that if there is a problem down the road this could be re-visited as far as the upstairs entrance.

Mr. Neiss - An appendage to your motion are the conditions I am about to discuss: These are what I show as proposed potential conditions.

Related to the Thermaco Big Dipper Grease Removal IS Unit, if that product does not work the applicant will use an external grease trap whether or not that unit works will be within the purview of Mr. Costa to check and confirm. If it is determined by some objective criteria that the rear entrance is not functioning well enough that there is the possibility that the front door the Kinderkamack door to the restaurant could be closed as an exit only. What criteria would be used to determine that? How about a six month trial period after the restaurant opens and if the borough engineer has determined that the number of complaints or the number of issues presents a problem the question of front entrance be re-visited.

There will be an additional handicapped parking space in the rear parking area that is Van Accessible. There will be the raising of monument sign how high or what the parameters of the monument sign are going to be.

James Arakalian - Why don't you say that the monument sign will be raised not more than 4 feet.
Bridget Bogert - No more than 8 feet tall.

Mr. Neiss - I think 7.6 feet high.

Mr. Mignone - We are approving the footprint as it is shown it is just going to be elevated no more than 4 feet.

Mr. Neiss - It is limited to 8 feet from the top. The applicant will dress up the windows on the south side. Architectural treatments to the windows. My next note pertains the comprehensive sign ordinance and the signage around the property. They have to adhere to it.

Bob Costa - I think the board said we want you to come back in with what you are putting in the kitchen. They are coming back.

Mr. Neiss - Next question is about the outdoor dining and the situation with the seating. The 126 seats, I just want to be clear on just how will resolve that. Comply with future ordinance.

Mayor - I would like incorporate all of Mr. Neiss' conditions into Mr. Arakalian motion and I will second it.

ROLL CALL VOTE

Councilman Mignone, Mr. Arakalian, Ms. Busteed, Mayor Moscaritolo, Mr. Duerr, Mr. Nyman, Mr. Clarke, Mr. Glass, Ms. Boland and Tom Kyritz - All vote yes.

Motion Passes.

Kevin Duerr - There was a ground breaking at Hoffman Koos on Wednesday.

MOTION TO ADJOURN 11:15PM

Mr. Nyman makes a motion to adjourn. Seconded by Mayor Moscaritolo.

Respectfully submitted:

Marijane Brandau