

Mellow Bagels & Café, LLC
101 Midland Avenue
Block 206, Lot 3

BOROUGH OF RIVER EDGE MUNICIPAL LAND USE BOARD

**RESOLUTION GRANTING SITE PLAN APPROVAL FOR
RETAIL FOOD ESTABLISHMENT TO MELLOW BAGELS & CAFÉ, LLC FOR
101 MIDLAND AVENUE
BLOCK 206, LOT 3
RIVER EDGE, NEW JERSEY**

WHEREAS, the Municipal Land Use Board of the Borough of River Edge is a duly constituted body authorized by statute with responsibility to supervise and be concerned with the orderly development and planning of the Borough, as authorized by the statutes and ordinances made and provided; and

WHEREAS, Mellow Bagels & Café, LLC (hereinafter referred to as the “Applicant”) filed an application with the Municipal Land Use Board of the Borough of River Edge (the “Board”) for property known as Block 206, Lot 3 on the tax map of the Borough of River Edge, located at 101 Midland Avenue (the “Property”), for site plan approval for a retail food establishment based on a change in tenant; and

WHEREAS, Five Flowers Corp. is the owner of the Property and provided authorization for the Applicant to submit this application to the Board; and

WHEREAS, the Applicant proposes to operate a bagel, sandwich and coffee shop on the Property; and

WHEREAS, the Board deemed the application complete on June 10, 2026 and a public hearing was conducted on June 10, 2026 via hybrid meeting (in person and via Zoom video conference); and

WHEREAS, the Applicant was represented by Thomas J. Barrett, Esq. (“Mr. Barrett”), 912 Kinderkamack Road, Suite 1, River Edge, NJ 07661; and

WHEREAS, Housam Kayali (“Mr. Kayali”) of North Haledon, New Jersey, was duly sworn and provided fact testimony in support of the application; and

WHEREAS, the Applicant’s Architect, Kyung “Christopher” Lee (“Mr. Lee”) of K.H. Lee Architects, 111 Grande Avenue, Suite 212, Palisades Park, New Jersey 07650, was duly sworn and qualified and provided expert testimony in support of the application; and

WHEREAS, the public was given notice of the application and had an opportunity to participate in the hearing and no one appeared to be heard; and

WHEREAS, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the Property for the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of River Edge and provided proof of service of such notice in accordance with the Zoning Ordinance of the Borough of River Edge, as amended and supplemented, and the Municipal Land Use Law (the “MLUL”), N.J.S.A. 40:55D-1 to -163; and

WHEREAS, the Applicant submitted proof that a copy of said notifications were published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of River Edge in accordance with the Zoning Ordinance of the Borough of River Edge as amended and supplemented, and the MLUL; and

WHEREAS, all jurisdictional requirements of the applicable state statutes and local ordinance were met; and

WHEREAS, pursuant to §350-4(e) of the Code of the Borough of River Edge, site plan approval shall be required for any building or structure (regardless of its previous use), which is to be used as a restaurant for sit-down service or take-out service, or as a fast-food establishment, or any other intended use where a beverage or food handler's license is required; and

WHEREAS, in addition to the Application documents, the Applicant submitted the following:

1. Proposed Alterations for Mellow Bagels & Café prepared by Kyung Lee of K.H. Lee Architects, 111 Grand Avenue, Suite 212, Palisades Park, NJ 07650, dated April 28, 2026 and consisting of 1 sheet; and
2. Site Plan / Erosion Control Plan prepared by Alexander Lapatka of Lapatka Associates, Inc., 12 Route 17 North, Paramus, NJ 07652, dated March 22, 1994, last revised July 6, 1995 and consisting of 2 sheets; and

WHEREAS, the Applicant submitted a Letter of Noncompliance issued by Stephen A. Depken, the Borough Construction Official / Zoning Officer, dated March 30, 2026; and

WHEREAS, the Board Engineer, Robert L. Costa, P.E., P.P. & C.M.E. ("Mr. Costa"), issued a report dated June 4, 2026; and

WHEREAS, the Board Planner, Thomas Behrens, Jr., P.P., AICP ("Mr. Behrens"), issued a report dated June 5, 2026; and

WHEREAS, the Board, after carefully considering the evidence and testimony presented by the Applicant, as well as the Letter of Noncompliance, the Engineering Review Letter issued by Mr. Costa, and the Planning Review Letter issued by Mr. Behrens, has made the following factual findings and conclusions:

The Proposal and Property

1. The Board reviewed the application and deemed it complete on June 10, 2026 during its work session. The Board held a public hearing on the application immediately following the work session via hybrid meeting (in person and via Zoom video conference).

2. The Applicant sought site plan approval for a retail food establishment for the operation of the Property as a bagel, sandwich and coffee shop. The application did not require any variance relief.

3. The Property is located in the C-1 Commercial Neighborhood Business Zone wherein the proposed use is permitted. The Property was formerly operated as The Human Bean, which received approval for a similar coffee shop use in October 2023.

4. The Property is bounded by Kinderkamack Road to the east, Midland Avenue to the north, an apartment complex to the west, and a bank building/music school to the south. Development surrounding the site consists of commercial uses to the north, east and south and a multifamily development to the west. The Property is currently developed with an existing one-story commercial building, paved parking area with an ingress driveway on Kinderkamack Road and an egress driveway on Midland Avenue, pedestrian walkways, refuse enclosure, drainage facilities, and landscaping.

5. The proposed improvements are limited in scope and include the installation of a new gas cooking griddle beneath the existing hood system, a new rack oven beneath a second hood, and updated signage on the north and east building elevations.

Public Hearing

6. Mr. Barrett explained that the Applicant sought site plan approval due to a change in ownership of the existing coffee shop, which is located within the C-1 Commercial: Neighborhood Business District, where the proposed use is permitted. The Applicant will be updating operations to include the on-site baking of bagels and preparation of sandwiches.

7. Mr. Barrett explained that the original building on the Property was approved in 1994 and that the site complies with the prior approvals issued by the Board and the County of Bergen Planning Board. Mr. Barrett explained that the Property was previously occupied by Dunkin Donuts, then the Human Bean, and the Applicant intends on continuing the coffee shop and café business.

8. Mr. Barrett explained that there are no site changes proposed, except for the text of the signage and minor interior renovations.

9. The Board heard testimony from the Applicant's representative, Mr. Kayali, who was duly sworn. Mr. Kayali testified that the application does not have too many changes from prior approval. A griddle top will be added with a stove and the business name will be updated. The café will provide made to order food and on-site cooked bagels instead of frozen and re-heated food. Mr. Kayali testified that he owns 2 other locations and the operations are the same.

10. Mr. Kayali testified that the hours are proposed to be from 5 a.m. to 10 p.m., and will comply with the Borough Code. There will be 4 employees, total. Products will be delivered with small trucks between 9 a.m. and 1 p.m. Trash will be collected 1 day per week and recycling will be collected 1 day per week.

11. In response to questions from the Borough Engineer, the Applicant's Architect, Mr. Lee, who was duly sworn and qualified, testified that no new variances are proposed, the only exterior changes are the text of the signs.

12. Mr. Lee further testified that no new rooftop equipment is proposed.

13. In response to questions from the Borough Zoning Officer, Mr. Kayali testified that the only change to the use will be cooked food on-site, but it will continue to operate as a café and coffeeshop.

14. In response to questions from the Borough Zoning Officer, the Applicant agreed to confirm installation of signage to discourage parking in the adjacent southern lot.

15. In response to questions from the Board, Mr. Lee confirmed that the "soft ice cream" sign would be removed and confirmed that the seating would remain the same.

16. In response to additional questions and concerns from the Board, Mr. Kayali testified that the interior equipment will be replaced with new equipment. Mr. Kayali further testified that the café and coffeeshop will provide bagel and lunch sandwiches, smoothies, coffee and bagels would be made on-site. The griddle will be used for eggs and bacon, among other made to order cooked sandwiches. The Applicant agreed to work with the Borough and Board professionals to address any issues regarding odors.

17. In response to additional questions from the Board, Mr. Kayali testified that product deliveries will be pickup truck or small box truck. The Applicant agreed to coordinate deliveries so that they would not impede driveway access. Mr. Kayali confirmed that the business would permit third-party food order deliveries, such as DoorDash.

18. The meeting was opened to members of the public for comment and no individuals appeared to be heard.

19. The Applicant further confirmed that it would comply with the recommendations in the Board professionals' reports and with the prior approvals on the Property.

20. The Board then entertained a motion to grant the application requesting site plan approval for a retail food establishment. A motion to grant the application with conditions was made by Councilman Glass and seconded by Mr. Gibbons. A vote was taken and the Board approved the application by a vote of 7 to 0, with 1 alternate seated to vote.

Justification for Relief

21. The Board found good cause to grant the Applicant's request for site plan approval for the change in tenant of the café and coffee shop on the Property.

22. The application met the requirements of the Borough Ordinance and prior Board Resolutions associated with the Property and did not require variance relief.

23. The Board found that the proposed application would have a minimal impact, if any, on adjacent and neighboring properties because no site changes were proposed. The Board further found that any potential impact could be mitigated by the conditions agreed to by the Applicant.

24. The Board determined that the Applicant addressed all issues raised by Mr. Behrens and Mr. Costa in their reports to the satisfaction of the Board.

NOW THEREFORE, BE IT RESOLVED that the Municipal Land Use Board of the Borough of River Edge hereby grants the Applicant minor site plan approval for a retail food establishment, with the following conditions:

1. The Applicant shall post all required application fees and provide sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account. No permits or certificates will be issued, nor will any work be performed by Board professionals or staff at any time that the Applicant's escrow account balance is not paid current, which shall be set forth by certification by the Board Clerk. The Applicant will have a continuing duty to maintain a positive balance in all escrow accounts until all conditions have been satisfied and all charges have been paid.

2. Before any permits are applied for, it is the responsibility of the Applicant to see if there are any open permits or violations and to address and resolve those, if any, before a new permit may be issued. When applying for permits, a copy of the signed Resolution and Board-approved plans must accompany the permit application. No certificate of occupancy shall issue unless all inspections have been performed, passed, and all prior approvals have been satisfied, which includes compliance with all conditions imposed by the Board. Prior to the issuance of a certificate of occupancy, the Applicants shall satisfy all amounts due and owing to the Board's professionals.

3. Operation of the café and coffee shop and use of the Property shall be consistent with testimony offered at the public hearing, the revised plans submitted with the application, the findings and conclusions of the Board stated herein, and the conditions set forth in this Resolution.

4. The Board's approval is expressly subject to all State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State. The Applicants shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. The Applicants shall comply with all laws and regulations related to affordable housing and/or the payment of the non-residential development fee, if applicable.

5. The Applicant's obtaining of approvals from all outside agencies shall be a prerequisite for issuance of a building permit, including but not limited to, obtaining written final approval from the Bergen

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County Planning Board, Bergen County Soil Conservation District, New Jersey Department of Environmental Protection, and the Borough of River Edge, if applicable.

6. The Applicant shall apply for and obtain a soil movement permit from the Borough, to the extent same may be required, and shall comply with the reasonable recommendations of the Borough Engineer with respect to same. The Applicant shall comply with the reasonable advice and recommendations of the Borough Engineer with respect to any drainage and stormwater management required on the Property, if necessary.

7. Revised plans, to the extent necessary, shall be submitted to the Board and the Board professionals for review and approval, to the extent applicable.

8. The Applicant is granted site plan approval, as set forth in this Resolution, testimony stated on the record and subject to the following conditions agreed to by the Applicant:

- a. The Applicant shall work with the Borough and Board professionals to address any issues regarding odors due to operations of the café and coffee shop.
- b. The Applicant shall coordinate deliveries so that they would not impede driveway access.
- c. The Applicant shall install signage to discourage parking in the adjacent southern lot.
- d. The Applicant shall comply with all comments, reports and conditions imposed by the Board, the Board Planner and the Board Engineer, as stated on the record and as may be stated in this Resolution.
- e. The Applicant shall adhere to all Borough Code requirements for any future change in lighting, signage or operations to include cooking or stoves and to submit a new or amended application to determine if additional Board approvals are required.
- f. The Applicant's proposed operation and use of the Property shall conform to the requirements and conditions of any prior approvals issued by the Board and the Borough, which are not inconsistent with this Resolution.

9. The Applicant shall comply with all requirements of the Board Planner and the Board Engineer, subject to the reasonable satisfaction and approval of same and the Board, to the extent necessary.

10. If the Applicant commences work on the project, same shall constitute acceptance of the above conditions.

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Vote on the Application

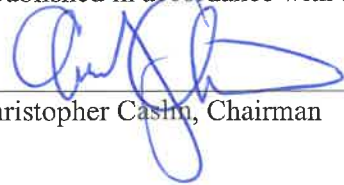
<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mayor Thomas Papaleo			X				
Councilman Glass	X		X				
Chris Caslin			X				
Michael Krey			X				
Ryan Gibbons		X	X				
Eileen Boland			X				
Dario Chinigo							X
Joseph Gautier							X
Jorge Salva							X
Tracy Levine [Alternate #1]			X				
Vacant [Alternate #2]							

Vote on the Memorialization

<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>	<u>INELG</u>
Mayor Thomas Papaleo						X	
Councilman Glass	X		X				
Chris Caslin			X				
Michael Krey		X	X				
Ryan Gibbons			X				
Eileen Boland						X	
Dario Chinigo							X
Joseph Gautier							X
Jorge Salva							X
Tracy Levine [Alternate #1]			X				
Vacant [Alternate #2]							

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BE IT FURTHER RESOLVED that the Resolution adopted on this 8th day of July, 2026 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10(g), as set forth above, at its June 10, 2026 meeting, and that **a copy of this Resolution be provided to the Applicants, the Borough Engineer, the Construction Code Official of the Borough of River Edge, and the Borough Health Department**, and a notice of this decision shall be published in accordance with the law.



Christopher Cashin, Chairman

CERTIFICATION

I, Ryan Gibbons, Board Secretary, do hereby certify that the above Resolution was adopted by the Board at its meeting held on July 8, 2026. This Resolution memorializes the Board's approval of this matter at its meeting held on June 10, 2026.



Ryan Gibbons, Board Secretary
Borough of River Edge
Municipal Land Use Board