

BOROUGH OF RIVER EDGE MUNICIPAL LAND USE BOARD

**RESOLUTION GRANTING SITE PLAN APPROVAL ON
A FOOD HANDLER'S LICENSE AND PARKING RELIEF FOR
THREE NEW BRIDGE, LLC
3 NEW BRIDGE ROAD
BLOCK 1303, LOT 4
RIVER EDGE, NEW JERSEY**

WHEREAS, the Municipal Land Use Board of the Borough of River Edge is a duly constituted body as 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, Three New Bridge, LLC (hereinafter referred to as the "Applicant") has filed an application with the Municipal Land Use Board of the Borough of River Edge (the "Board") for property known as Block 1303, Lot 4 on the tax map of the Borough of River Edge, located at 3 New Bridge Road (the "Property"), for site plan approval for a food handler's license, a parking variance and landscape review; and

WHEREAS, the Board deemed the application complete on August 5, 2020 and a public hearing was also conducted on August 5, 2020; and

WHEREAS, the Applicant was represented by Saverio V. Cereste, Esq., 1624 Center Avenue, P.O. Box 845, Fort Lee, New Jersey 07024; and

WHEREAS, John Kim, the owner and operator of the Applicant, was duly sworn and provided testimony in support of the application; and

WHEREAS, Steven L. Koestner, P.E. & L.S., 61 Hudson Street, Hackensack, New Jersey 07601, was duly sworn, qualified as an expert professional engineer and surveyor, and provided testimony in support of the requested relief; and

WHEREAS, Hojoon Chung, R.A., LEED AP, 21 Grand Avenue, Suite # 604B, Palisades Park, New Jersey 07650, was duly sworn, qualified as an expert architect and provided testimony in support of the requested relief; 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 öMLULö), 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, the Applicant submitted an application and the following supporting documents:

1. Site plans prepared by Steven L. Koestner, P.E. & L.S. (öMr. Koestnerö), Koestner Associates, 61 Hudson Street, Hackensack, New Jersey 07601, consisting of four sheets, dated March 25, 2020;
2. Architectural plans prepared by Hojoon Chung, R.A., LEED AP (öMr. Chungö), Joon Architecture and Design, LLC, 21 Grand Avenue, Suite # 604B, Palisades Park, New Jersey 07650, consisting of three sheets, dated June 20, 2020; and
3. Impact and Evaluation Statement consisting of three sheets.

WHEREAS, the Applicant also submitted a Letter of Noncompliance issued by Thomas Behrens, PP, AICP (öMr. Behrensö), the Borough's Zoning Officer and Board Planner, dated June 3, 2020; and

WHEREAS, the Board's Engineer, Robert L. Costa, P.E., P.P. & C.M.E. (öMr. Costaö), issued an Engineering Review Letter, dated August 5, 2020; and

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

The Proposal

1. The Board reviewed the application and deemed it complete on August 5, 2020 during its work session. The Board held a public hearing on the application immediately following the work session.

2. The Applicant is seeking site plan approval to modify the existing building on the Property into a new sports facility and snack bar. The proposed facility includes three discrete

sections: table tennis at the south end of the building (10,828 square feet), lobby and snack bar in the center of the building (2,607 square feet), and golf simulators at the north end of the building (15,199 square feet).

3. The Applicant originally proposed 28 table tennis surfaces, which was reduced to 18 surfaces. The Applicant proposes 28 golf simulators. The snack bar section will include six tables consisting of 24 seats. Additional seats are proposed in the table tennis and golf simulator sections for players to rest and eat food from the snack bar.

4. The Applicant proposes to operate the new sports facility from 9:00 a.m. to 11:00 p.m., in accordance with the Borough Code, County and State laws, with approximately five to ten employees on-site.

5. The Applicant proposes minor exterior site improvements, including an aluminum panel enclosed porch with a canopy at the entrance of the building, painting the stucco building exterior and landscaping. The Applicant does not propose to expand the footprint of the building.

6. In accordance with §350-4E of the Borough Code, which states "notwithstanding the provisions of Section 350-5B(3), 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 handlers license is required." A site plan application to the Board is required due to the need for a food handlers license (and certificate of occupancy).

7. In accordance with §416-37 and §350-25 of the Borough Code, parking standards for uses not specifically identified in the ordinance shall be determined by the Planning Board. The Board's Planner, Mr. Behrens, identified a standard of one parking space per table tennis

surface and golf simulator, or a total of 56 parking spaces¹ where 51 spaces are proposed. Variance relief is required.

The Property

8. The Property is located in the C-1 Zone, where the proposed use is permitted.

9. The site, identified as Block 1303, Lot 4, is a 1.3192-acre tract developed with a one-story stucco building with a frontage on New Bridge Road. Parking is provided in the front of the site and access to the site is provided via the southbound side of New Bridge Road only. The building is currently unoccupied but was once utilized as batting cages. Development surrounding the site includes commercial property to the north, the Historic New Bridge Landing to the east, a gas station to the south and residential development across train tracks to the west.

10. The existing building on the Property is non-conforming with respect to maximum lot coverage, maximum impervious coverage, and minimum front yard, side yard and rear yard setbacks.

The Public Hearing

11. The Board considered the June 3, 2020 Letter of Noncompliance by Mr. Behrens. Pursuant to Mr. Behrens' letter, in accordance with Borough Code §350-4E, notwithstanding the provisions of §350-5B(3), 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 handlers' license is required. In addition, pursuant to Mr. Behrens' letter, in accordance with Borough Code §416-37 and §350-25, parking standards for uses not specifically identified in the

¹ Mr. Behrens calculated the number of required parking spaces using the original number of table tennis surfaces (28) and golf simulators (28) proposed by the Applicant.

ordinance shall be determined by the Planning Board. As such, a parking standard of one parking space per table tennis surface and golf simulator.

12. The Board considered the August 5, 2020 Engineering Review Letter by Mr. Costa. Pursuant to Mr. Costa's letter, the Applicant must address several concerns related to the sanitary sewer system, drainage, water service, utilities, traffic, garbage and loading details, irrigation, streetscape, and additional review by the Board's Engineer.

13. The Board considered testimony from Steven L. Koestner, P.E. & L.S. (Mr. Koestner), who was duly sworn and provided expert engineering testimony in support of the application.

14. Mr. Koestner testified that the Property is located in the C-1 Commercial District, where the proposed commercial use for a sports facility is permitted. Mr. Koestner also testified that the Applicant does not propose to increase the footprint of the existing building on the property so area or bulk variances are not required. The existing building either conforms or has pre-existing non-conformities.

15. Mr. Koestner testified that the Applicant proposes 51 parking spaces, where 56 are required. Mr. Koestner testified that there was a reduction in the number of table tennis surfaces and golf simulators to a total of 46, which would require only 46 parking spaces under the Zoning Officer's calculation of one parking space per table tennis surface and golf simulator.

16. Mr. Koestner also testified that deliveries will be made at the rear of the building and trash receptacles are proposed to be located at the rear, northwest corner of the building, which is out of site and accessible via a bituminous driveway. In response to questioning from the Board, Mr. Koestner testified that the garbage disposal will be performed by a private service

and garbage and delivery trucks will be able to access the rear of the building and trash receptacles by driving in a full circulation around the building.

17. Mr. Koestner testified that all lights at the rear of the building would be shielded to prevent spillage on adjacent residential properties.

18. Mr. Koestner testified that there is existing stormwater drainage on the Property and no increase in runoff is proposed. In addition, Mr. Koestner testified that other utilities on the Property will not need to be expanded.

19. Mr. Koestner testified and the Applicant agreed that all concerns raised in Mr. Costa's Engineering Review Letter dated August 5, 2020 would be addressed by working with Mr. Costa and Mr. Behrens. The Applicant agreed to correct and resubmit plans to show the location of trash receptacles and the Applicant agreed to screen same.

20. Members of the Board inquired about proposed landscaping on the Property. The Applicant agreed to widen islands along New Bridge Road to increase landscaping so long as aisle width can be maintained. The Board agreed to waive all streetscape requirements, with the exception of the agreed upon landscaping along New Bridge Road.

21. Members of the Board also inquired about proposed signage on the Property. The Applicant intends on complying with the Borough Ordinance for any and all signage on the Property and if the proposed signage does not meet the Borough's requirements, the Applicant will submit an additional application for review. Mr. Koestner also testified that all signage requirements for traffic entering and exiting the Property will be followed.

22. The Board considered testimony from Hojoon Chung, R.A., LEED AP (Mr. Chung), who was duly sworn and provided expert architecture testimony in support of the application.

23. Mr. Chung testified that the Property is improved by a one-story, U-shaped, stucco building. The outdoor of the appearance of the building will be improved with aluminum paneling with a canopy at the entrance and the stucco will be painted in neutral colors. The elevation of the building will not change. The HVAC system is roof mounted and will be screened.

24. Mr. Chung testified that the proposed facility includes three discrete sections: table tennis at the south end of the building (10,828 square feet), lobby and snack bar in the center of the building (2,607 square feet), and golf simulators at the north end of the building (15,199 square feet). There will also be employee office and locker space as well as restroom facilities.

25. Following questions from the Board, Mr. Chung testified that the rear entrance to the building could be re-located to be closer to the proposed trash area.

26. The Board also asked questions about the appropriate number of ingress and egress points on the building. Mr. Chung testified that the number is based on capacity and complies with the Borough Code. Mr. Chung also testified that the building must comply with the Borough Code to receive a certificate of occupancy.

27. The Board considered testimony from John Kim (õMr. Kimö), the owner and operator of the Applicant, who was duly sworn and provided testimony in support of the application.

28. Mr. Kim testified that the new sports facility will be called õReady to Golfö and he intends to operate the business from 9 a.m. to 11 p.m., seven days per week, unless otherwise limited by law. Mr. Kim testified that he and his son will be the primary operators of the facility.

29. The meeting was opened to members of the public for comment but no one appeared to be heard.

30. The Board then entertained a motion to grant the application requesting site plan approval for a food handler's license and a variance for 51 parking spaces subject to all conditions discussed and agreed to on the record. The motion was made by Vice Chairman Richard Mehrman and seconded by Councilman Dario Chinigo. A roll call vote was taken and the application was granted by the Board by a vote of 10 to 0.

Justification for Relief

31. The application proposed 51 parking spaces where 56 spaces were required and variance relief was needed.

32. The Board considered Mr. Behrens's testimony that the Borough does not have a set standard for number of parking spaces for sports facilities. Mr. Behrens determined the number of spaces required for such a facility would be calculated at one space per table tennis surface or golf simulator. The 56 required spaces were based on the originally proposed 28 table tennis surfaces and 28 golf simulators. The Applicant subsequently reduced the number of table tennis surfaces to 18, resulting in a need for only 46 parking spaces.

33. The Board found that the Applicant's reduction of the total number of table tennis surfaces and golf simulators reduced the need for parking at the sports facility and, as a result, the proposed 51 parking spaces would be sufficient.

NOW THEREFORE, BE IT RESOLVED by the Borough of River Edge Municipal Land Use Board, Bergen County, New Jersey, that the Applicant's request for site plan approval for a food handler's license and parking relief, as described herein, be and is hereby approved for

the reasons set forth herein and subject to the terms and conditions contained in the body of this Resolution and as follows:

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 of the Board Planner. 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. Completion of the proposed development and subsequent use of the Property shall be consistent with testimony offered at the public hearing, the findings and conclusions of the Board herein, and the conditions set forth in this Resolution.

3. 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, including but not limited to those relating to health and safety, traffic and hours of operation.

4. 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 County Planning Board, New Jersey Department of Environmental Protection, and the Borough of River Edge, if applicable.

5. The Applicant's streetscape requirements are waived except that the Applicant shall widen islands located along New Bridge Road to increase landscaping so long as aisle width can be maintained.

6. The Applicant will submit revised plans for review and approval by the Board Engineer and Board Planner to indicate location of trash area with screening and confirm the location of the rear entrance's proximity to the trash area, as testified.

7. If necessary, an escrow account shall be established for the Borough Engineer, in order that the Engineer can do a pre-construction inspection of the premises.

8. The Applicant shall comply with all requirements of Costa Engineering's August 5, 2020 Engineering Review Letter, subject to the reasonable satisfaction and approval of the Board Engineer.

9. The Applicant shall comply with all comments and conditions imposed by the Board, the Board Engineer and the Board Planner, as stated on the record and as may be stated in this Resolution.

Vote On the Application

<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 Chinigo		X	X				
James Arakelian			X				
Eileen Boland			X				
Louis Grasso			X				
Alphonse Bartelloni			X				
Michael Krey			X				
Richard Mehrman	X		X				
Chris Caslin						X	
Ryan Gibbons [Alternate #1]			X				
Gary Esposito [Alternate #2]			X				

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							
Councilman Chinigo							
James Arakelian							
Eileen Boland							
Louis Grasso							
Alphonse Bartelloni							
Michael Krey							
Richard Mehrman							
Chris Caslin							X
Ryan Gibbons [Alternate #1]							
Gary Esposito [Alternate #2]							

BE IT FURTHER RESOLVED that the Resolution adopted on this 2nd day of September, 2020 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10.g, as set forth above, at its August 5, 2020 meeting, and that a copy of this signed Resolution be provided to the Applicant, the Construction Code Official of the Borough of River Edge, and a notice of this decision shall be published in the official newspaper of the Borough of River Edge.

James Arakelian, Chairman

CERTIFICATION

I, Louis Grasso, Secretary of the Board, do hereby certify that the above Resolution was adopted by the Board at its meeting held on September 2, 2020. This Resolution memorializes the Board's approval of this matter at its meeting held on August 5, 2020.

Louis Grasso, Secretary
Borough of River Edge
Municipal Land Use Board