

BOROUGH OF RIVER EDGE MUNICIPAL LAND USE BOARD

**RESOLUTION GRANTING SITE PLAN APPROVAL ON
A FOOD HANDLER'S LICENSE FOR
JOSEPH'S PIZZERIA, LLC
486 KINDERKAMACK ROAD
BLOCK 804, LOTS 13 AND 14
RIVER EDGE, NEW JERSEY
APPLICATION NO. 2020-___**

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, Joseph's Pizzeria, 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 804, Lots 13 and 14 on the tax map of the Borough of River Edge, located at 486 Kinderkamack Road (the "Property"), for site plan approval for a food handler's license; and

WHEREAS, the Board deemed the application complete on April 15, 2020 and a public hearing was also conducted on April 15, 2020; and

WHEREAS, the Applicant was represented by Thomas Barrett, Esq., 912 Kinderkamack Road, Suite 1, River Edge, NJ 07661; and

WHEREAS, Jose Carchi and Kevin Carchi, the owners/operators of the Applicant, were duly sworn and provided 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, the Applicant submitted site plans prepared by Alexander J. Lapatka, PE and Jeffrey H. Kleine, LS, of Lapatka Associates, Inc., 12 Route 17 North, Suite 230, Paramus, NJ 07652, consisting of one sheet, dated March 13, 2013; and

WHEREAS, the Applicant submitted a signage plan prepared by The Montoro Architectural Group, 150 West Saddle River Road, Saddle River, New Jersey 07458, dated April 11, 2013, consisting of one sheet; and

WHEREAS, the Applicant submitted a Letter of Noncompliance issued by Thomas Behrens, PP, AICP (“Mr. Behrens”), the Board Planner, dated February 19, 2020; and

WHEREAS, the Board, after carefully considering the evidence and testimony presented by the Applicant, as well as the February 19, 2020 Letter of Noncompliance, has made the following factual findings and conclusions:

The Proposal

1. The Board reviewed the application and deemed it complete on April 15, 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 for the proposed change in ownership of the former Mazzone’s Pizzeria space on the Property 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”.

3. The Property was the subject of the Planning Board’s 2013 approval, at which time the space in question was operated as a pizzeria, as it had for several decades. The Applicant proposes to continue the same pizzeria operation with no changes to the site or seating.

4. The Property is located in the C-1 Zone, where the pizzeria is a permitted use.

5. The site, identified as Block 804, Lots 13 and 14, is a 1.06 acre tract developed with a two-level commercial strip mall with frontage on Kinderkamack Road. Angled parking is provided on the front of the site and access to the rear parking area is provided via the southerly driveway. The building is occupied by a number of tenants, including a nail salon, music school, jewelry store, Joyce Restaurant, Nick's Hot Bagels, hobby shop, several vacant spaces and the space in question. Development surrounding the site includes single-family development to the south and west, commercial development to the north, and NJ Transit rail corridor and Hackensack River to the east.

6. The Applicant proposes to operate the new pizzeria in accordance with the former operation of the 554 SF space and 2013 Board approval for the site. The pizzeria will operate on a daily basis from 11:00 a.m. to 10:00 p.m., with two (2) employees, one of whom will also provide deliveries. No exterior site improvements are proposed.

7. The Applicant proposes to maintain the six (6) seats that were previously approved for Mazzone's Pizzeria.

8. The 2013 site plan approval assigned the pizzeria a parking requirement of four (4) spaces. The proposed change in tenancy does not require any additional parking. There will be no deliveries to the Property, as the Applicant will be purchasing all supplies with his own vehicle.

9. Temporary approval was granted to the Applicant on March 18, 2020, in light of meeting cancellations due to COVID-19. As a condition of the temporary approval, the Applicant was required to appear before the Board at a rescheduled meeting to present its application.

Public Hearing

10. The Board considered the February 19, 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."

11. The Board considered testimony from Jose Carchi ("Mr. Carchi") and Kevin Carchi, owners/operators of the Applicant, who were duly sworn and provided testimony in support of the application.

12. Mr. Carchi testified that the Applicant intends to operate the pizzeria seven (7) days a week from 11:00 a.m. to 10:00 p.m. There will be two (2) employees and the restaurant will provide delivery service. It is the Applicant's intention to purchase all required goods at an outside retailer, so there will be no deliveries made to the restaurant. Prior approval of this site as a pizzeria was granted for six (6) seats, and the seating for six (6) will stay the same. In response to a question from the Board as to what type of vehicle the Applicant will use to bring purchased supplies to the restaurant, Mr. Carchi advised that a minivan will be utilized for same. In addition, Mr. Carchi testified that no box trucks or delivery trucks will bring supplies to the Property.

13. Mr. Behrens advised the Board that this was only a change in ownership, there are no variance or parking issues, and any sign for the pizzeria must conform to prior approvals granted with respect to the subject restaurant.

14. The Applicant agreed that any signage for the pizzeria would conform to the requirements of prior approvals.

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

16. The Board then entertained a motion to grant the application requesting site plan approval for a food handler's license. A motion to grant the application was made by Mayor Papaleo and seconded by Louis Grasso. A vote was taken and the application was granted by the Board by a vote of 9 to 0.

Justification for Relief

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

18. The Board determined that the Applicant addressed all issues raised by Mr. Behrens in his February 19, 2020 Letter of Noncompliance 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 site plan approval for food handler's license, 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 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.

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

5. The Applicant shall apply for and obtain a soil movement permit, to the extent as may be required.

6. No commercial vehicles or delivery vans shall be parked overnight or stored at the Property.

7. The proposed sign shall fit within the existing sign box, will conform to the requirements of any prior approvals and will match the depiction provided in the application.

8. 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.

9. The Applicant shall comply with all requirements of Costa Engineering, subject to the reasonable satisfaction and approval of Costa Engineering and the Board.

10. The Applicant shall comply with all comments and conditions imposed by the Board, the Board Engineer and the Borough Engineer, 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		x				
Councilman Chinigo			x				
James Arakelian			x				
Eileen Boland			x				
Louis Grasso		x	x				
Alphonse Bartelloni						x	
Michael Krey			x				
Richard Mehrman						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							X
Michael Krey							
Richard Mehrman							X
Chris Caslin							
Ryan Gibbons [Alternate #1]							
Gary Esposito [Alternate #2]							

BE IT FURTHER RESOLVED that the Resolution adopted on this _____ day of _____, 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 April 15, 2020 meeting, and that a copy of this 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

Dated: _____

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 _____, 2020. This Resolution memorializes the Board's approval of this matter at its meeting held on April 15, 2020.

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