

**BOROUGH OF RIVER EDGE MUNICIPAL LAND USE BOARD**

**RESOLUTION APPROVING A FOOD HANDLER'S LICENSE  
AND GRANTING SITE PLAN AND SIGNAGE APPROVAL FOR  
PROSPECT CAPITAL RESTAURANTS**

**1047 MAIN STREET  
BLOCK 1404, LOT 3.01  
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**, Prospect Capital Restaurants (hereinafter referred to as "Applicant") has filed an application with the Municipal Land Use Board of the Borough of River Edge (the "Board") for property known as Block 1404, Lot 3.01 on the tax map of the Borough of River Edge, located at 1047 Main Street (the "Property"), for a food handler's license, site plan and signage approval; and

**WHEREAS**, the Board deemed the application complete on February 19, 2020 and a public hearing was also conducted on February 19, 2020; and

**WHEREAS**, the Applicant was represented by Timothy Corrison, Esq., of Connell Foley, LP, 56 Livingston Avenue, Roseland, NJ 07068; and

**WHEREAS**, Christopher Rigassio ("Mr. Rigassio"), one of the owners and operating partner of the Applicant franchise, was 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 has submitted proof that a copy of said notifications have been 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*, N.J.S.A. 40:55D-1 to -163; 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 architectural plans prepared by Gregory Ralph, AIA, 1924 Route 22 East, Bound Brook, NJ 08805 entitled "Jersey Mike's, Tenant 5A.2, New Bridge

Landing, Retail 2 Bldg., River Edge, New Jersey, dated August 27, 2019, consisting of the following sheets:

- A-100: Tenant Plan, Enlarged Plans, Details;
- M-101: Mechanical Specifications;
- P-301: Plumbing Plan;
- Demised Premises; and
- 2013 Plans prepared by Michels & Waldron, dated November 4, 2013;

**WHEREAS**, the Applicant submitted a signage plan prepared by Urban Neon Sign, Lighting & Graphics Company, 500 Pine Street, Suite 3A, Holmes, PA 19043, dated December 12, 2019, consisting of two sheets; and

**WHEREAS**, the Applicant submitted a Letter of Noncompliance issued by Thomas Behrens, PP, AICP (Mr. Behrens), the Board Planner, dated December 5, 2019; and

**WHEREAS**, the Board, after carefully considering the evidence and testimony presented by the Applicant, as well as the December 5, 2019 Letter of Noncompliance and February 14, 2020 Memorandum issued by Mr. Behrens, has made the following factual findings and conclusions:

The Proposal

1. The Applicant proposes to open a Jersey Mike's Restaurant (Jersey Mike's) in the shopping center at the Property. The Property is located in the C-1 Commercial Neighborhood Business Zone, where the proposed restaurant is a permitted use. The Applicant requested approval for a food handler's license, site plan approval, signage approval and variance relief of the proposed number of parking spaces.

2. The Board reviewed the application and deemed it complete on February 19, 2020 during its work session. The Board held a public hearing on the application immediately following the work session.

3. The Applicant proposes a seating area with 20 seats. Pursuant to Borough Ordinance §350-25.A., the parking requirement for the proposed use is one parking space for every two restaurant seats, plus one space for every two employees in the maximum work shift, or a minimum of 40 spaces, whichever is greater. A prior Resolution adopted by the Board regarding the Property allows the Applicant's proposed restaurant use without additional parking. As such, the Board determined that no parking variance is required.

4. The Applicant requires approval for the proposed signage for the restaurant.

5. The Board considered the December 5, 2019 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, according to conditions of prior Resolutions of approval for the Property, the Applicant was required to submit proposed signage to the Board for review to determine conformance with the Borough Ordinance or approve variance relief.

#### February 19, 2020 Hearing

6. The Board considered testimony from Mr. Rigassio, who was duly sworn and provided testimony in support of the application.

7. Mr. Rigassio testified that the proposed Jersey Mike's restaurant will contain approximately 20 seats. Mr. Rigassio testified the restaurant will sell sub sandwiches and that all employees will receive training and licensing from the County of Bergen. According to the testimony, 30-35% of the restaurant's business will be takeout orders. Mr. Rigassio further testified that the on-site cooking will be limited to roast beef, chicken and cheesesteaks only; no fish will be served at the restaurant.

8. In response to questions from the Board, Mr. Rigassio testified that the stove will be fitted with a hood and exhaust. The Applicant agreed that the stove filters will be cleaned weekly and serviced every three months, and that the filters will be immediately cleaned upon receipt of any odor complaints.

9. The Board raised concerns about vehicles parked and stored at the Property. In response, Mr. Rigassio testified that no commercial vehicles or delivery vans will be parked overnight or stored at the Property.

10. The Board did not have concerns about the proposed signage on the Property.

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

12. The Board then entertained a motion to grant the application requesting approval of a food handler's license and site plan and signage approval. A motion to grant the application was made by Vice Chairman Mehrman and seconded by Ryan Gibbons. A vote was taken and the application was granted by the Board by a vote of 9 to 0.

Justification for Relief

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

14. The Board determined that the Applicant addressed all issues raised by Mr. Behrens in his December 5, 2019 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 and signage approval, 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. All stove filters shall be cleaned weekly and serviced every three months, and will be cleaned immediately upon receipt of any complaints regarding odors.

8. The proposed sign shall fit within the existing sign box and will match the depiction provided in the application.

9. An escrow account shall be established for the Borough Engineer, in order that the Engineer can do a pre-construction inspection of the premises.

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

11. 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**

<b><u>MEMBER</u></b>	<b><u>M</u></b>	<b><u>2D</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>	<b><u>ABSENT</u></b>	<b><u>INELG</u></b>
Mayor Thomas Papaleo						x	
Councilman Chinigo			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	x				
Gary Esposito [Alternate #2]			x				



**Vote on the Memorialization**

<b><u>MEMBER</u></b>	<b><u>M</u></b>	<b><u>2D</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>	<b><u>ABSENT</u></b>	<b><u>INELG</u></b>
Mayor Thomas Papaleo							X
Councilman Chinigo							
James Arakelian							
Eileen Boland							
Louis Grasso							
Alphonse Bartelloni							
Michael Krey							
Richard Mehrman							
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 February 19, 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 February 19, 2020.

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