

BOROUGH OF RIVER EDGE MUNICIPAL LAND USE BOARD

RESOLUTION

**GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL, BULK
VARIANCES AND MAJOR SOIL MOVEMENT APPROVAL TO PERMIT
A SALON/OFFICE BUILDING AT 335 JOHNSON AVENUE, RIVER EDGE, NJ
BLOCK 1405, LOT 3
APPLICATION NO. 2018-__**

WHEREAS, ILBJ, LLC (the "Applicant") applied to the Municipal Land Use Board of the Borough of River Edge (the "Board") for preliminary and final site plan approval, bulk variances and major soil movement approval, on property located at 335 Johnson Avenue, River Edge, New Jersey, and identified on the Tax Map of the Borough of River Edge as Block 1405, Lot 3 (the "Property"); and

WHEREAS, the Board deemed the application complete on October 26, 2017 and public hearings were conducted on January 17, 2018, February 7, 2018 and April 4, 2018; and

WHEREAS, on January 17, 2018 there was no testimony during that meeting, and the Board solely took jurisdiction over the subject project; and

WHEREAS, the public was given notice of the application and had an opportunity to participate in the hearing; and

WHEREAS, no member of the public appeared either in support of or in opposition to the application; and

WHEREAS, Timothy E. Corriston, Esq., of Connell Foley, attended the hearings on behalf of the property owner of Lot 4, Block 1405; and

WHEREAS, all jurisdictional requirements of the applicable state statutes and local ordinance have been met; 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 subject property of 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 N.J.S.A. 40:55D-1 et seq.; 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 N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, the Board, after carefully considering the evidence and testimony presented by ILBJ, LLC, as well as the Board's professionals, has made the following factual findings and conclusions:

1. The Board reviewed the application and deemed it complete on October 26, 2017 during its work session.
2. The Board scheduled public hearings on the application on January 17, 2018, February 7, 2018 and April 4, 2018. On January 17, 2018, the Board took jurisdiction over the application. No testimony occurred on January 17, 2018, and the application was carried to February 7, 2018. The Applicant waived all statutory timeframes and extended the time for the Board to act.
3. The Board received the following documents from its professionals:
 - (a) Memorandum dated January 12, 2018, prepared by Thomas Behrens, Jr., PP, AICP, of Burgis Associates, Inc., the Board Planner.
 - (b) Various reports issued by Robert Costa, P.E. of Costa Engineering, dated November 13, 2017; January 12, 2018; January 23, 2018; and April 4, 2018. The Board also received a Memorandum dated January 23, 2018 from Mr. Costa.
4. At the February 7, 2018 hearing, the Board considered the plans submitted by the Applicant, including the Bertin Engineering Plans dated September 27, 2017 and the Montoro Architectural Group plans, dated May 26, 2017 and revised September 27, 2017. In response to comments made by the Board and its professional, revised plans were submitted by the Applicant, as follows:

Bertin Engineering February 21, 2018 Plans

- (a) "Cover Sheet – Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", sheet C1.1 dated September 27, 2017, last revised February 21, 2018.
- (b) "Demolition and Erosion Control Plan - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet C2.1, dated September 27, 2017, last revised February 21, 2018.
- (c) "Site Plan - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet C2.2, dated September 27, 2017, last revised February 21, 2018.

- (d) "Grading, Utility & Erosion Control Plan - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet C2.3, dated September 27, 2017, last revised February 21, 2018.
- (e) "Landscape and Lighting Plan - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet C2.3, dated September 27, 2017, last revised February 21, 2018.
- (f) "Site Details - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet C3.1, dated September 27, 2017, last revised February 21, 2018.
- (g) "Utility Details - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet C3.2, dated September 27, 2017, last revised February 21, 2018.
- (h) "Topographic Survey - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet SV-1, dated July 20, 2017.

The Montoro Architectural Group

- (a) "Lower Level – New Building, 335 Johnson Avenue, Block 1404, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet PB1.1, dated May 26, 2017, last revised February 20, 2018.
- (b) "First Floor Level - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet PB1.2, dated May 26, 2017, last revised February 20, 2018.
- (c) "Site Sections - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet BP1.2B, dated May 26, 2017, last revised February 20, 2018.
- (d) "Temporary Retaining Wall Sketch - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet PB1.2C, dated May 26, 2017, last revised February 20, 2018.
- (e) "Second Floor Level - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet PB1.3, dated May 26, 2017, last revised February 20, 2018.
- (f) "Front Elevations - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet PB1.4, dated May 26, 2017, last revised February 20, 2018.

- (g) "Right Elevation, Rear Elevation - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet BP1.5, dated May 26, 2017, last revised February 20, 2018.
- (h) "Left Elevation, Signage Chart - Salon/Office Building, 335 Johnson Avenue, Block 1405, Lot 3, Borough of River Edge, Bergen County, New Jersey", Sheet PB1.6, dated May 26, 2017, last revised February 20, 2018.

Costa Engineering

- 5. In his April 4, 2018 report, Mr. Costa indicated that the Applicant is required to obtain additional approvals or waivers from the following agencies having jurisdiction over the project:
 - (a) Bergen County Planning Board;
 - (b) Bergen County Soil Conservation District;
 - (c) Borough Soil Movement Application;
 - (d) Borough Police Department;
 - (e) Borough Fire Department;
 - (f) Borough Ambulance;
 - (g) Borough Shade Tree; and
 - (h) NJDEP TWA Permit.
- 6. Mr. Costa also received and reviewed the Stormwater Drainage Calculations prepared by Bertin Engineering dated November 27, 2017, revised February 21, 2018.

Burgis Associates Memorandum

- 7. The Board also considered the Memorandum issued by Thomas Behrens, Jr., PP, AICP, dated January 12, 2018. In his Memorandum, Mr. Behrens described the project as Block 1405, Lot 3 and as a square 0.52 acres/22,500 SF lot, with 150 feet of frontage on Johnson Avenue, sloping upward roughly 4 feet to the rear of the property. Lot 3 is developed with a two-story building surrounded on its side and rear by paved driveway and parking areas, and a landscaped area in front of the building. The majority of the site is characterized by impervious coverage. The existing building is currently vacant, having been formerly occupied by the Christine Valmy Salon and Day Spa. Mr. Behrens noted that the site is not in a designated "area in need of redevelopment". Surrounding development includes PNC Bank and New Bridge Landing at River Edge, shopping center (Total Wine, etc.) to

the north, office development to the east and south, and surface parking and Route 4 to the west.

8. Mr. Behrens described the Applicant's proposal as one involving the demolition of the existing structure on the property to accommodate the development of a two-story, 14,867 SF building positioned at the rear of the lot, with structured parking, including below-grade and elevated parking in the front yard. The building is intended for salon and retail use on the first floor and office use on the second floor, as depicted in the architectural plans.
9. According to the Behrens report, Sheet PB1.2 indicates a proposed gross floor area of 14,867 SF. The first floor includes 5,237 SF designated for salon space, and 1,300 SF for unspecified retail space. The second floor plan depicts two separate tenant spaces for DM Hair Studios office and Call Center space, as well as the building owner's offices, totaling 7,232 SF.
10. The site is located in the C-2 Commercial Office Zone, where the proposed salon, retail and office uses are permitted.
11. In his January 12, 2018 Memorandum, Mr. Behrens describes and otherwise offers his comments regarding other aspects of the application, including, but not limited to, setbacks, building height, parking and circulation, loading, signage, streetscape/landscaping, lighting, dumpster enclosure and the like.
12. With respect to signage, Mr. Behrens noted that four wall-mounted signs are proposed, where the C-2 Zone permits one wall-mounted sign per retail tenant. Two main identification wall signs of 40 SF were proposed, as well as on the front and rear facades of the building, centered below the parapet. One 8 SF sign was proposed to be located on the façade at the main entrance of the building on the main level, and another 8 SF sign located on the façade at the lower level entrance. The total proposed sign area equated to 96 SF. The requested signage was modified, as hereinafter stated, during the course of the testimony.
13. In his report, Mr. Behrens identified the relief required to be obtained by the Applicant, as follows:

Parking and Circulation. Parking is provided via two levels of structured parking, with each level having a two-way driveway ramp connecting to Johnson Avenue. The main (upper) level of parking provides 17 spaces and the lower level of parking provides 45 spaces, equating to a site total of 62 parking spaces, including 4 handicapped spaces. Two 10 foot by 18 foot parallel parking spaces are provided on the lower level, where §350-25D(1) requires a minimum parking stall size of 9 feet by 24 feet for parallel parking spaces. It is recommended that employee parking be designated in the lower-level parking area to free up parking on the main level for customers/clients.

Loading. One 12 foot by 40 foot loading space is required for the proposed ±14,000 SF office/retail building. The site plans depict a 7.83 foot by 22 foot loading area.

Signage. Four wall-mounted signs are proposed, where the C-2 Zone permits one-wall-mounted sign per retail tenant. Two main identification wall signs of 40 SF are proposed, one on each of the front and rear facades of the building, centered below the parapet. One 8 SF sign is located on the façade at the main entrance of the building on the main level and another 8 SF sign is located on the façade at the lower level entrance, which is generally not visible from outside. The total proposed sign area equates to 96 SF.

Streetscape/Landscaping. Landscaping is provided along the side property lines, landscape beds in the front yard and around the pocket park and ramp area at the northeast corner of the site. The planting schedule includes four flowering dogwood and one American hornbeam trees, several species of evergreen shrubs and deciduous shrubs.

Minimum Combined Side Yard Setback. A total side yard setback of 20.75 feet is proposed, where minimum combined side yard setback of 35 feet is required.

Minimum Number of Parking Spaces. 62 parking spaces are proposed where a minimum of 74 spaces are required, including 4 handicapped spaces and 2 non-compliant parallel parking spaces on the lower level. The number of proposed spaces was reduced to 61 at the April 4, 2018 hearing.

Minimum Paved Area Setback. A rear parking setback of 0 feet is proposed, where a minimum 2 foot setback is required per §416-13A(5).

Parking in Front Yard. In accordance with §350-25B(2), off street parking shall not be located in a required front yard and in all non-residential zones, no off-street parking shall be located closer than 6 feet to a side or rear lot line, where a 0 foot rear parking setback and 5.75 foot side parking setback are proposed. This requirement applies to both the surface and above-grade parking facilities.

Maximum Driveway Slope. §350-25G(4) states “where possible, driveway intersections with any roadway shall not have a grade that exceeds 2% from the roadway curb line for a minimum distance of 50 feet from the curb line and measured along the center line of the driveway”. The proposed driveways ramps have slopes of approximately 18%. The slope was reduced to 11.3% at the April 4, 2018 hearing.

Minimum Parking Buffer. Though below grade, the lower level of parking has a proposed setback of approximately 0 feet from the rear property line. §350-25H(3) states “off-street parking areas shall have planting buffer strips at least 5 feet in width around the perimeter of the parking area. Such buffer strips shall be interrupted only at points of ingress and egress and where the parking area or access drive abuts a building on the same lot.

Maximum Number of Building Signs. The Applicant proposed four wall-mounted signs, where a maximum of one building sign per retail tenant, or two wall-mounted signs, is permitted per §416-53.

Maximum Sign Area: A total sign area of 96 SF is proposed, where a maximum sign area of 40 SF is permitted per §416-53 which allows a maximum sign area of 20 SF for each retail tenant with more than 12 feet of frontage.

Maximum Sign Height. The maximum sign mounting height of the two main identification signs is approximately 38 feet, where a maximum sign mounting height of 18 feet is permitted per §416-47A.

Sign on Rear Façade. §416-53C(7) permits each retail or other permitted establishment to have one sign mounted on the building's principal frontage or façade. Second signs are permitted for corner lots only and must face the secondary frontage directly on a public road.

Testimony by the Applicant's Professionals – February 7, 2018

14. John Montoro, AIA, having an address of 150 West Saddle River Road, Saddle River, NJ, was accepted as a licensed professional architect of the State of New Jersey, was sworn in and provided testimony respecting the subject project. Mr. Montoro testified as to the subject architectural plan dated May 26, 2017, revised to January 18, 2018 as of the February 7, 2018 hearing. He testified as to Exhibit A-1, which is PB1.2C of the architectural plan, which was revised to February 6, 2018. That plan was redlined and marked up for purposes of presentation to the Board. Mr. Montoro described A-1 as a reproduction of the site plan. He described the existing retaining wall. He also testified that the adjacent property is lower in grade than the subject Property. The adjacent property elevation is 16.11 feet. The subject site is not flat and same increases from 16.11 feet to about 26.11 feet. He testified that the Applicant is proposing to remove the existing retaining wall and intends to construct a split-level building. The upper level will be close to existing grade. The new building will be pushed back to the rear of the site to allow for parking in the front.
15. Mr. Montoro also testified as to Exhibit A-2, which is PB1.1 of the architectural plan. He testified there are three exits on the lower level.
16. He also testified as to Exhibit A-3, which is PB1.4 of the architectural plan (front elevation). He said that A-3 provides a view from the street, as well as a view from the parking deck.
17. Mr. Montoro testified as to Exhibit A-4, which is PB1.2 of the architectural plan, revised to December 12, 2017. He testified that the Applicant is proposing to create buffers on the sides of the building, as well as the parking area. He said that the plantings, plus an additional 2 feet, is to be gained and will provide for an adequate buffer. There are steps

that will provide access to the building. Access ramps are also proposed. There will be right turns in and right turns out. The Applicant is proposing to create a walkway and a pocket park. A pocket park with seating and landscaping is proposed at the northeast corner of the site, adjacent to Johnson Avenue. A stairway and ramp provide access from the public sidewalk level up to the main level of the building. There are three means of egress proposed by the Applicant.

18. As to the size of the building, 734 SF is proposed on the lower level, 6,901 SF is proposed on the main floor, and 7,232 SF is proposed as to the second floor, for a total of 14,867 SF.
19. Mr. Montoro also testified that the rear yard setback is proposed to be 0. He testified that the Applicant reached an agreement with the adjacent property owners to allow the Applicant to excavate the site without disrupting the operations of the existing neighbors.
20. The proposed building will have a salon on the first floor and offices on the second floor. In addition, there may also be an area for food or retail sale of chic merchandise such as scarves and the like.
21. The exterior of the building is proposed to be made of stone, stucco, glass and metal panels. The metal panels will result in a contemporary-looking building. Two glass panels are proposed. There are porticos at both entrances. The building will be fully sprinklered.
22. Mr. Montoro testified to the proposed signage. There is an existing sign on the back of the building and the Applicant wants a sign on that side of the building for visibility along Route 4. The proposed sign is smaller than the existing sign on the rear of the existing building.
23. Mr. Montoro also testified as to Exhibit A-5, which is PB1.5 of the architectural plan depicting the right elevation and the rear elevation. He testified that the rear elevation mimics the front elevation. A terrace is proposed at the back of the building. The building façade will be consistent throughout.
24. Mr. Montoro also testified as to Exhibit A-6, which is PB1.2B of the architectural plan. He testified that the areas shaded in blue are the sections which show the property line and the adjacent building on stilts to the south. The blue area also depicts the additional grassy area being provided by the Applicant. He testified that this is a modern building that will complement its surroundings. The sidewalk in front of the building will be made of pavers. The retail space will be utilized by the salon. Christine Valmy has operated at that site, according to the testimony, for many years.
25. Mr. Montoro testified as to Exhibit A-7, which he described as a partial plan of the upper level where the delivery system will be. The proposed delivery space was relocated and, as a result, the Applicant will lose one parking space. A-7 is a reproduction of PB1.2 of the architectural plan. Mr. Costa testified that the ramps depicted on PB1.2 are at 18% grade and are steep. Mr. Costa and the Board expressed concerns that the ramps will not work. Mr. Costa also testified that the Applicant should add a heating system if the

Applicant is proposing to leave the grade at 18%, and the Applicant agreed to same. In addition, the Board noted that the pocket park, associated fence and certain improvements are within the right-of-way. The Applicant agreed to remove said improvements out of the municipal right-of-way and revised plans are to be submitted accordingly.

26. Mr. Costa also informed the Board that he provided the Applicant with a PVC design and that he would review the proposed drainage, as well as the sewer and drainage improvements that are being proposed by the Applicant.
27. Mr. Montoro testified that the garbage area has been relocated to the lower level of the building at the southwesterly corner. The garbage area was originally proposed on the upper level. As a result of the relocation, the Applicant is losing one space at the upper level. There will be 45 spaces on the lower level and 16 spaces on the upper level. Garbage pickup will occur on the lower level.
28. There was also testimony regarding the Borough's Redevelopment Plan. The Applicant's attorney stated that he looked at the Redevelopment Plan and believes that the proposed building will be consistent with the Redevelopment Plan for the downtown.
29. Mr. Montoro testified that as to parking, the subject parking area will be 14 feet from the property line and 20 feet from the street.
30. According to the testimony from Mr. Montoro, there will be 8 feet 6 inches clear distance on the lower level and a 12% ramp. The Board questioned whether emergency vehicles can access the lower level and requested input from various municipal departments, including emergency services.
31. Mr. Montoro testified that three street trees will be removed. Mr. Mehrman advised Mr. Montoro that the three trees should be replaced on-site and should be planted along the first floor elevation. The tree pit details are to be supplied by the Applicant to the Board Engineer, Robert Costa.
32. Mr. Montoro continued his testimony as to signage. He indicated that PB1.4, noted as Sign B, is depicted on the front elevation. PB1.5 depicts the signage on the lower level. The Board expressed concerns regarding the quantity of signs and requested that excess signage be eliminated by the Applicant.
33. Mr. Montoro further testified that a salon is proposed on the first floor and office on the second floor. The parapet will be sufficient to shield the utilities on the rooftop. The retail space is 1,300 SF and can be utilized either as a cafeteria or for retail sales. Mr. Montoro testified that in terms of utilizing the subject 1,300 SF area for sale of apparel, that the proposal is for chic apparel to be sold, including bags and scarves.
34. The testimony from Mr. Montoro is that the signs will be shut down by 11:00 p.m. and the signs will be on a timer. David Novak, PP, of Burgis Associates, attended the February 7,

2018 hearing. According to Mr. Novak, the signs, pursuant to the Borough's Ordinance, have to be turned off by between 11:45 p.m. and 12:00 a.m.

35. In addition thereto, Mr. Montoro testified that the signs will be either internally illuminated or back-lit. The lower level will be well-lit. The Applicant may propose a key-card system for access to the building after certain hours.

Testimony from Brian Shortino, PE on February 7, 2018

36. The Board also heard testimony from Brian Shortino, PE, of Bertin Engineering. Mr. Shortino was duly qualified as a licensed professional engineer of the State of New Jersey and was sworn prior to providing testimony to the Board. Mr. Shortino testified that the Applicant has no concerns with respect to the comments made by Robert Costa in his report dated January 12, 2018. The Applicant agreed to comply with the comments made by Mr. Costa.
37. Mr. Shortino, during his testimony, testified as to the landscape rendering, which was marked as Exhibit A-8. Exhibit A-8 is the same drawing that was submitted to the Board. However, same was colorized and dated as of January 17, 2018. Mr. Shortino testified that two driveways are proposed, a northerly driveway, which is two way, and a southerly driveway, which is two way. The loading area was relocated to the northerly side of the proposed building. According to Mr. Shortino, the lower level does not get a lot of surface runoff. However, inlets are proposed at the lower level and will tie into the dry well at the southeasterly section of the proposed building. Inlets in the parking lot area are proposed. The water will be collected in the dry well.
38. Mr. Shortino testified that this is a 22,500 SF lot (0.516 acre). He testified that the Applicant is proposing a two-story building on the subject property. He testified that 71 parking spaces are required pursuant to the Borough of River Edge's Land Use Ordinance. The Applicant proposes 62 parking spaces, triggering a variance. A total of 45 parking spaces are proposed on the lower level of the building, and 17 parking spaces are proposed on the upper level of the proposed building. A concrete ramp provides access to the upper level. One handicapped parking spot is proposed on the upper level parking area. In the lower level parking area, two handicapped parking spaces are proposed.
39. In terms of lighting, Mr. Shortino testified that decorative lights are proposed along Johnson Avenue. Decorative trees are proposed along the northerly side of the subject property.
40. As to sanitary sewer, the existing building has a lateral connection, which ties into the Grand Avenue system. The Applicant intends to use the existing sewer connection. The existing sewer is to be televised and, if same is in poor condition, as determined by Mr. Costa, the Applicant will install a new sanitary sewer system. Mr. Shortino testified that the Applicant requires a TWA Permit from the State of New Jersey if a new sanitary sewer system is to be installed and, if the Applicant is able to use the existing system, a TWA

Permit will not be required. He testified that the existing building has not had an issue before. The Applicant agreed to comply with all conditions as set forth in the reports issued by the Board Engineer, Robert Costa, PE. The Applicant agreed to mill and pave Grand Avenue up to the northerly property line of Johnson Avenue and to make all necessary repairs to the streets resulting from the proposed sewer connection.

41. As to parking, the Applicant requested a design waiver for parking, as more fully set forth hereinbelow.

Planning Testimony by Lisa Phillips on February 7, 2018

42. The Board heard testimony from Lisa Phillips, PP, having an address of 19 Blackfoot Trail, Oakland, NJ. Ms. Phillips testified as to Exhibit A-9, which contained photographs taken by Ms. Phillips and consisting of two pages.
43. Ms. Phillips testified that she reviewed the Master Plan and the Zoning Ordinance, as well as some of the redevelopment plans, in preparation for the hearing. She believes that the proposed building is a modern-style building that is consistent with what the Borough wants to see in the C-2 Zone. She testified that the parking structure is attached to the principal structure and that a front yard variance for the structure is required. 30 feet is required pursuant to the Borough's Ordinance and 13 feet to the parking structure is proposed.
44. Ms. Phillips testified there will be no detriment due to the mass of the building. As to the side yard setback, one side of the building needs a 5 foot variance and the other side complies with the Borough's side yard setback ordinance.
45. Ms. Phillips testified that it is a better planning alternative to deck the building, and that the deck creates the side yard setback variance. The building meets the setback requirements, but for one side. Ms. Phillips testified there will be no impairment to light, air or open space.
46. With respect to the rear yard setback, 20 feet is required pursuant to the Borough's Zoning Ordinance. A 7 foot setback is proposed to the building, and a 0 foot setback is proposed to the structure. The building coverage exceeds 40%. According to Ms. Phillips, the same can be mitigated as a result of the proposed on-site drainage.
47. Ms. Phillips testified that no tractor trailers are proposed to access the site.
48. Ms. Phillips testified that one space per 150 feet is required, triggering a 78 space parking requirement. She believes that in most towns, one space per 200 feet is required and that one parking space for 150 feet is typically for medical-type uses and that requirement is excessive. She testified that a total of 62 parking spaces are being proposed. Parking is

proposed in the front yard. She testified that the majority of stilted buildings have parking within the front yard at grade so there is no impact to the neighbors.

49. As to the negative criteria, Ms. Phillips testified that the Master Plan goals are met. There will be an upgrade to the existing area and there will be no negative impact to the Master Plan in the zone where the proposed use is permitted. She testified there will be no negative impacts associated with the proposed development, nor will there be any substantial detriment to the public good.
50. Ms. Phillips testified that the Applicant agrees to comply with the comments as contained in the Memorandum prepared by Thomas Behrens of Burgis Associates dated January 12, 2018 including, but not limited to, streetscape and landscaping.
51. Ms. Phillips testified that the operator believes that the proposed parking is sufficient. If one was to utilize the parking standard of one parking space per 200 feet, then the Applicant is shy four parking spaces, according to Ms. Phillips.

Testimony at the April 4, 2018 Hearing

52. The Applicant, in response to the concerns expressed by the Board at the February 7, 2018 hearing, including, but not limited to, the amount of signage being proposed and the slope of the ramp, submitted revised plans. The Bertin Engineering plans dated September 27, 2017 and including Sheets C1.1, C2.1, C2.2, C2.3, C2.4, C3.1, and C3.2 were all dated September 27, 2017 and revised to February 21, 2018. Drawing No. SV-1 of the Bertin Engineering Plan was dated July 20, 2017. The plan prepared by the Montoro Architectural Group and consisting of Drawings No. PB1.1, PB1.2, PB1.2B, PB1.2C, PB1.3, PB1.4, PB1.5 and PB 1.6 were all dated May 26, 2017 and revised to February 20, 2018.

Testimony by John Montoro at the April 4, 2018 Hearing

53. Mr. Montoro testified that the Applicant shrunk the building by 2 feet, gaining an extra 2 feet in the front yard setback. He testified as to PB1.1, marked as Exhibit A-10. The Applicant revised the plans to move the building back and, because the building moved back, the ramp increased in length. The mechanical room and stair will move back as well. The revised plans depict a four-way stair in lieu of a scissor stair. The island was redesigned to accommodate the proposed columns. As to PB1.1, same contains a building summary chart, replicated immediately hereinbelow.

	Floor Area	Common Area	Balcony Area	Total Area
Lower Level		704 SF	None	704 SF
1 st Floor/Main Level (Retail)	6,335 SF	343 SF	333 SF (included in 6,335 SF)	6,678 SF

2 nd Floor Level (Offices)	6,917 SF	92 SF	None	7,009 SF
Total	13,252 SF	1,139, SF		14,391 SF

54. The aforesaid chart depicts a total area of the proposed building of 14,391 SF. The Applicant originally proposed a 14,867 SF building, representing a reduction of 476 SF.
55. As to parking, 45 parking spaces are proposed on the lower level, including two handicapped parking spaces. A 4 foot by 8 foot dumpster area is proposed to the rear of the proposed building. PB1.1 also depicts a 4 foot high wall, as well as a 42 inch high railing along the top of the wall. A mechanical room is also proposed on the lower level of the proposed building.
56. Mr. Montoro testified as to PB1.2, marked as Exhibit A-11. He testified that the parking deck was shifted backwards. The pocket park that was over the property line was moved back and is no longer on the property line. The elevator and stair were also moved back, as well. A total of 16 parking spaces are proposed on the upper level versus the 17 spaces originally proposed on that level. PB1.2 depicts a retail area of 1,260 SF (Retail 1-B), as well as an area identified as "DM Hair Studio – Retail", consisting of 5,075 SF. The retail areas are proposed on the first level. An outdoor balcony consisting of 333 SF is depicted. One handicapped parking space is proposed on the upper level, as well as the delivery zone. PB1.2 also depicts various landscaping on the lower level of the proposed building, along the side yards and front yard.
57. PB1.3, marked as Exhibit A-12, depicts three offices on the second floor level identified as "Building Owner Offices 2-A", "Offices 2-B", and "DM Hair Studio Offices". A "DM Hair Studio Call Center" is also shown on PB1.3.
58. Mr. Montoro testified as to PB1.4, marked as Exhibit A-13. He testified that there is no modification as to the proposed front elevation. PB1.4 depicts a proposed sign identified as "Sign A", consisting of 40 SF.
59. As to PB1.5, marked as Exhibit A-14, Mr. Montoro testified that the ramp has increased in length as a result of shrinking the building by 2 feet. He testified that proposed "Sign D" that was shown as the rear of the building has been removed. The appearance of the building is the same.
60. PB1.6 was marked as Exhibit A-15. Same depicts a parapet that was added. The sign legend at PB1.6 is replicated hereinbelow:

Sign	Area	Location
Sign A	40 SF	Front Façade
Sign B	8 SF	First Floor Level, Main Entry

Sign C (2 nd sign)	40 SF	Rear Façade
Total	88 SF	

61. According to the Borough's Land Use Ordinance, the maximum square footage of a "main" sign is 20 SF. Sign A consists of 40 SF, triggering a variance. Sign B is proposed at 8 SF. Sign C is proposed at 40 SF, triggering a variance.

Testimony of Brian Shortino, P.E., at the April 4, 2018 Hearing

62. Mr. Shortino testified that the plans were revised to show the shrinking of the building by 2 feet. He testified as to his plans revised to February 21, 2018. The proposed building has been reduced by 476 SF. A total of 61 parking spaces are proposed by the Applicant, where 74 parking spaces are required, triggering a variance. The Applicant lost one space. The variances requested by the Applicant are set forth in the chart replicated from the April 4, 2018 Costa Engineering report:

Regulation	C-2 Zone	Existing	Proposed
Minimum Lot Area	15,000 SF	22,500 SF	22,500 SF
Minimum Lot Width	150 feet	150 feet	150 feet
Minimum Lot Depth	100 feet	150 feet	150 feet
Minimum Front Yard	30 feet	19.9 feet (E)	81.9 feet (v)
Minimum Side Yard One	15 feet	35.8 feet	North: 15 feet South: 15 feet (building) 4.5 feet (parking structure (v))
Both	35 feet	101.8 feet	Both: 30 feet (building) (v) 19.5 (incl. parking structure) (v)*
Minimum Rear Yard	20 feet	59.6 feet	7 ft. (building)(v) 0 ft. (parking structure)(v)
Maximum Building Coverage %	40%	15.1%	33.6% (building) >40% (incl. parking structure)(v)
Maximum Lot Coverage	80%	80.9%(E)	80.9%(v)
Maximum Building Height	2.5 Stories/35 feet	2 stories/27.7 feet	29.12 feet
Maximum Building Height with Parapet	42 feet	n/a	37.79 feet
Maximum Building Height (stories)	2.5	2	2
Minimum Parking	74 spaces		61 spaces (v)

Building Signs	Required	Existing	Proposed
§416-52 Main Sign: Industrial, Office, Professional Buildings			
Maximum Quantity	1 SF	2 SF (E)	3 SF (v)
Maximum Area of all Signs	60 SF	126± SF (E)	88 SF (v)
Total Area of all Signs	20 SF	126± SF (E)	88 SF (v)
§416-53 Main Sign: Other Retail and Commercial Uses			
Maximum Quantity	1 per establishment	2 SF (E)	3 SF (v)
Maximum Area of all Signs	120 SF	126± SF (E)	88 SF
Total Area of all Signs (SF)			
Painted on Boards	16	126± SF (E)	n/a
Illuminated Box	18	n/a	n/a
Individual Letters	20	n/a	2 @ 40 (v) 1 @ 8

(E) = existing non-conforming condition (V) = variance required

63. In addition to the foregoing, Mr. Shortino testified that the Applicant also requires the following relief, as more particularly described herein in the Burgis report:
- (a) **Parking and Circulation:** Two 10 foot by 18 foot parallel parking spaces are provided on the lower level, where §350-25D(1) of the Borough's Land Use Ordinance requires a minimum parking stall size of 9 feet by 24 feet for parallel parking spaces.
 - (b) **Loading:** One 12 foot by 40 foot loading space is required for the proposed building. The plans depict a 10 foot by 18 foot loading area.
 - (c) **Minimum Paved Area Setback:** A rear parking setback of 0 feet is proposed, where a minimum 2 foot setback is required per §416-13A(5) of the Borough's Land Use Ordinance.
 - (d) **Parking in Front Yard:** In accordance with §350-25B(2), off-street parking shall not be located in a required front yard and in all non-residential zones, no off-street parking shall be located closer than 6 feet to a side or rear lot line, where a 0 foot rear parking setback and 5.75 foot side parking setback are proposed.
 - (e) **Maximum Driveway Slope:** Pursuant to §350-25G(4), driveway intersections with any roadway shall not have a grade that exceeds 2% from the roadway curb line for a minimum distance of 50 feet from the curb line and measured along the center line of the driveway. The proposed driveways ramps have slopes of 11.3%.
 - (f) **Minimum Parking Buffer:** The lower level of parking has a proposed setback of approximately 0 feet from the rear property line, where §350-

25H(3) states that off-street parking areas shall have planting buffer strips at least 5 feet in width around the perimeter of the parking area.

64. As to Drawing C2.2, new Belgian block curb along the existing edge of pavement was proposed to extend on the adjacent property known as Block 1405, Lot 4. During the course of the April 2018 hearing, the Applicant agreed that the curb will be solely on the Applicant's property line. Timothy E. Corrison, Esq. appeared on behalf of the property owner of Lot 4, Block 1405. During the course of the testimony, the Applicant and Mr. Corrison informed the Board that the owner of Lot 4 had not consented in writing to having the curb extend onto its property and that property owners within 200 feet of Lot 4 were not noticed. As a result, the Board required the Applicant to limit all improvements to the Applicant's property and not to extend onto adjacent properties, including Lot 4, Block 1405.
65. Mr. Shortino advised the Board that the quantity of soil to be moved is 5,360 cubic yards. The Applicant submitted a Major Soil Movement Permit Application to the Borough of River Edge, dated November 7, 2017. The Board was also in receipt of a letter from Bergen County Soil Conservation District dated February 28, 2018. Attached to the February 28th letter was an Application for Soil Erosion and Sediment Control Plan Certification signed by Steve Ianuzzi, dated February 28, 2018. The Applicant agreed to coordinate with the Borough Police Department and the County of Bergen respecting the trucking of the subject soil. In addition thereto, the Applicant agreed that the route to be taken with regard to trucking of soil shall be a right turn on Johnson Avenue, right turn on Grand Avenue and on to Route 4.
66. Mr. Shortino testified that the slope was reduced from 18% to 11.3%. The Applicant agreed that the ramp will be heated and the Board Engineer, Robert Costa, shall retain authority over the ramp and other aspects of the proposed project, including the proposed retaining wall. The Board also expressed concerns with respect to the ability of emergency vehicles to access the building, including the lower level. The applicant agreed to provide turning templates to the Board and Board Engineer for review and approval. The Applicant also agreed to enter into an Indemnification Agreement with the Borough of River Edge arising from or in any way related to the work to be performed in the Borough streets, maintenance and/or repair, as will be more particularly set forth in an agreement to be entered into between the Applicant and the Borough of River Edge. The Applicant received a proposed Agreement from the Board Engineer and agreed to enter into an agreement with the Borough of River Edge.
67. The Applicant agreed to comply with all of the comments and recommendations as set forth by Thomas Behrens of Burgis Associates and Robert Costa of Costa Engineering, as well as the conditions imposed by the Board in connection with the proposed project.

WHEREAS, the Board then entertained a motion to approve the request for a preliminary and final site plan approval, soil movement and bulk variances, as identified herein and pursuant to the Borough of River Edge's Zoning Ordinance; and

WHEREAS, the motion was made by Mayor Edward Mignone and seconded by Richard Mehrman, and the vote on the motion was as follows:

Affirmative: Mayor Edward Mignone, Richard Mehrman, Lou Grasso, Chris Caslin and Michael Krey

Absent: Councilman Vito Acquafredda, Dr. Jeffrey Gewirtz

WHEREAS, the Board finds good cause and grants the Applicant' request for preliminary and final site plan approval, soil movement and bulk variances, as identified herein. The Board finds that the proposal is consistent with the Borough's Master Plan, is in conformity with the Ordinance requirements and should be approved; and

WHEREAS, the Board finds that the variance relief may be granted pursuant to N.J.S.A. 40:55D-70(c)(2) provisions of the statute for the reasons discussed hereinabove. The Board finds that the purposes of the Municipal Land Use Law are advanced by the grant of the variances including the purpose set forth at N.J.S.A. 40:55D-2(a), that the benefits of the deviation substantially outweigh any detriments, and that those variances can be granted without substantially impairing the intent and purpose of the Master Plan and/or Zoning Ordinance and without causing substantial detriment to the public good. The Applicant demonstrated a basis for the grant of a variance pursuant to N.J.S.A. 40:55D-70c(2) and pursuant to Kaufman v. Warren, 110 N.J. 551 (1998). The Applicant met their burden of proof. The grant of the variances will not impact the neighborhood. As aforesaid, the Board was satisfied the variances could be granted without any substantial detriment to the public good, as well as the Zone plan and Zoning Ordinance of the Borough of River Edge. The Board determined the grant of the variance will not impact surrounding properties in the R-1 District.

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 preliminary and final site plan approval, soil movement and variance 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:

1. The Applicant shall post all required application fees and provide sufficient funds with the Borough to satisfy any deficiency in the Applicant' 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 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 same may be required.
6. The Applicant has agreed to heat the proposed ramp, and the Board and the Board Engineer shall retain authority over this aspect of the application.
7. The signs shall be turned off by 11:00 p.m. and the signs shall be on a timer.
8. The Applicant shall enter into a Hold Harmless Agreement with the Borough of River Edge with respect to the sewer and water hookup.
9. The Developer's Agreement shall include an indemnification from the owner to the Borough for water damage and any other damage resulting with the Applicant's hookup into the municipal water and sewer system.
10. The Applicant shall work with Burgis Associates regarding the streetscape and landscaping, and shall arrive at an appropriate landscaping plan that is acceptable to the Board.
11. The detail for the fencing and retaining wall is to be provided to the Board and the Board Engineer for review and approval in advance of issuance of a permit.
12. The Applicant shall mill and pave Grand Avenue up to the northerly property line of Johnson Avenue as a result of the Applicant connecting into the municipal sewer and water lines.
13. The Applicant shall coordinate with the Borough Police Department and the County of Bergen respecting the trucking of soil from the subject site. The Applicant agreed to the following trucking route: right turn onto Johnson Avenue, right turn onto Grand Avenue, and onto Route 4.
14. The Board Engineer, Robert Costa, shall retain authority over the retaining wall proposed by the Applicant and as requested by Timothy E. Corrison, Esq., counsel to the owner of Lot 4, Block 1405, and agreed to by the Applicant.
15. Turning templates are to be provided to the Board and Board Engineer for review and approval, and same shall demonstrate that emergency vehicles are able to access the building, including the lower levels. Same shall be provided prior to the issuance of a permit

16. The sewer is to be televised, subject to the comments made by Robert Costa and Thomas Behrens.

17. The Applicant agreed to comply with any and all comments and recommendations as contained in the reports issued by the Board professionals.

18. The Applicant shall submit the findings from its soil investigation to the Board and the Board Engineer.

19. The Applicant shall return to the Board if additional retail or all retail is proposed by the Applicant and/or in the event additional relief is required.

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>
Hon. Edward Mignone, Mayor	x		x				
Councilman Vito Acquafredda						x	
James Arakelian			x				
Eileen Boland							x
Dr. Jeffrey Gewirtz		x		x			
Richard Mehrman							
Lou Grasso				x			
Chris Caslin			x				
Michael Krey [Alternate #1]							

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>
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Hon. Edward Mignone, Mayor	x		x				
Councilman Vito Acquafredda						x	
James Arakelian			x				
Eileen Boland							x
Dr. Jeffrey Gewirtz							
Richard Mehrman		x	x				
Lou Grasso			x				
Chris Caslin			x				
Michael Krey [Alternate #1]			x				

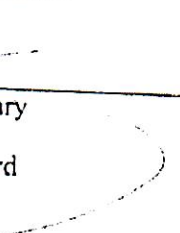
BE IT FURTHER RESOLVED that the Resolution adopted on this 7th day of February 2018 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10.g, as set forth above, by a vote of 6 to 0, at its February 7, 2018 meeting, and that a copy of this Resolution be provided to the Applicant, 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: 8-13-18

CERTIFICATION

I, Dr. Jeffrey Gewirtz, Secretary of the Board, do hereby certify that the above Resolution was adopted by the Board at its meeting held on _____. This resolution memorializes the Board's approval of this matter at its meetings held on April 4, 2018


Dr. Jeffrey Gewirtz, Secretary
Borough of River Edge
Municipal Land Use Board