

BOROUGH OF RIVER EDGE  
LAND USE BOARD  
MEETING MINUTES  
COUNCIL CHAMBERS  
April 15, 2020

Zoom - Meeting called order at 7:35 p.m.

Pledge of Allegiance.

Roll call please:

Mayor Papaleo

Chairman, James Arakelian - here

Vice Chairman, Dick Mehrman - absent

Lou Grasso - here

Ryan Gibbons - here

Michael Krey ó here

Eileen Boland - here

Chris Caslin- here

Alphonse Bartelloni - Absent

Dario Chinigo ó here

Gary Esposito - here

ALSO PRESENT: Thomas Behrens, Planner

Robert Costa ó Borough Engineer

Brian Chewcaskie, Esq.

Marina Stinley, Esq.

Meeting is called to order

**Memorializations**

•Adoption of the Fair Housing Element ó (was discussed and approved at last Board meeting) Motion for adoption ó Mr. Caslin ó so moved; second ó Mr. Gibbons. Roll call ó Mayor was absent at last meeting (ineligible to vote); Chairman Arakelian ó yes; Ms. Boland ó yes; Mr. Grasso- yes; Mr. Krey ó yes; Mr. Caslin ó abstain; Councilman Chinigo; Mr. Gibbons ó yes; Mr. Esposito ó yes.

•Adoption of the memorialization for Jersey Mikes -1047 Main Street (1025-1071 Main St.) Block 1404, Lot 3.01. For food handler's was approved. Motion to approve memorialization ó Motion to approve ó Mr. Krey; Second ó Mr. Esposito. Roll call - Mayor was absent at last meeting (ineligible to vote); Chairman Arakelian ó yes; Ms. Boland ó yes; Mr. Grasso- yes; Mr. Krey ó yes; Mr. Caslin ó abstain; Councilman Chinigo; Mr. Gibbons ó yes; Mr. Esposito ó yes.

Chairman Arakelian makes an announcement that Mr. Barteloni and Mr.. Mehrman are not present this evening so both alternates Mr. Gibbons and Mr. Esposito are voting members this evening.

3. Michael & Catherine Monopoli, 700 Millbrook Road, Block 305, Lot 39 addition to back of house and addition to deck. Motion to approve memorialization ó Mr. Esposito, Second ó Mr. Krey. Roll call ó Mayor - yes; Chairman Arakelian ó yes; Ms. Boland ó (not present at meeting when Board approved the application); Mr. Grasso- yes; Mr. Krey ó yes; Mr. Caslin ó (not present at meeting for approval); Councilman Chinigo- (not present at meeting for approval); Mr. Gibbons ó (not present at meeting for approval); Mr. Esposito ó yes.

4. Mark Neidorff, 268 Jefferson Avenue, Block 506, Lot 27, addition of a shed in backyard. Motion to approve memorialization ó Mr. Krey; Second ó Mr. Esposito, Roll call - Mayor - yes; Chairman Arakelian ó yes; Mr. Grasso- yes; Mr. Krey ó yes; Mr. Esposito ó yes.

5. Approval of minutes February 19, 2020 meeting. One change Mayor Elect to be changed to Mayor. Motion to approve ó Mr. Gibbons; Second - Mr. Krey. All in favor ó aye; Any opposed? Any abstained? Mayor abstained he was absent from that meeting. Councilman Chinigo abstained he was absent from that meeting as well.

### **Completeness Review**

6. PatDom,LLC ó Rugova Restaurant, 259 Johnson Avenue, Block 1417, Lot 3, Food handler's license for existing restaurant, site plan approval. Board had jurisdiction to proceed.

Attorney for Applicant ó Aiyana Gallardo, Esq. Applicant also has a related entity (Sonny T's) which is the holder of the liquor license which was approved at Mayor & Council meeting they did a place-to-place and person-to-person transfer of the liquor license. PatDom will be taking over and changing it to Sonny T's they are seeking site plan approval in connection with their food handler's license.

•Mr. Behrens ó application completeness - there is enough information and materials to hear the application.

Motion for completeness ó So moved Mr. Gibbons; second Mr. Caslin Roll call Mayor - yes; Chairman Arakelian ó yes; Ms. Boland ó yes; Mr. Grasso- yes; Mr. Krey ó yes; Mr. Caslin ó yes; Councilman Chinigo - yes; Mr. Gibbons ó yes; Mr. Esposito ó yes.

7. Jose Carchi, Joseph's Pizzeria, LLC, 486 Kinderkmack Road., Block 804, Lots 13 & 14 ó Food handler's license - site plan approval.

Attorney for Applicant ó Thomas Barrett, Esq. Preliminary approval was given because there are no changes other than a name change, so they can begin working and setting up their business up. The Board gave them temporary approval and now they are before the Board to finalize that approval.

Mr. Barrett ó The pizzeria was formerly called Mazzone Pizza located at the Crest Shopping Center. There are no changes being made other than the replacement of the 47 year-old equipment. It will be the same use that has been for the past 47 years.

•Ms. Stinley, Esq. - Board has jurisdiction to proceed.

•Mr. Behrens ó He has reviewed the application materials and they are sufficient to move forward to hear the application and determine that it's complete.

Motion to move the application to the regular meeting. So moved -Mr. Gibbons, Second - Mr. Krey. Roll call Mayor - yes; Chairman Arakelian ó yes; Ms. Boland ó yes; Mr. Grasso- yes; Mr. Krey ó yes; Mr. Caslin ó yes; Councilman Chinigo - yes; Mr. Gibbons ó yes; Mr. Esposito ó yes.

### **New Business**

PatDom,LLC ó Rugova Restaurant, 259 Johnson Avenue, Block 1417, Lot 3, Food handler's license for existing restaurant, site plan approval.

•Attorney for Applicant ó Aiyana Gallardo, Esq. Applicant plans on opening a restaurant called Sonny T's at 259 Johnson Avenue, Block 1417, Lot 3. They intend to operate a restaurant at the site pursuant to Section 354E site plan approval is required in connection with the food handler's license. The owner of Rugova restaurant previously received approval from the Board in February 2016 and associated with that approval was a parking variance as the property itself has minimal parking there are agreements in place with neighboring lots. Parking requirements 1 parking space for every 2 1/2 patrons ó they are uncertain as to how many patrons will be in there at this time. They will have to backtrack on this based on the current climate with social distancing and so forth in the future. Currently there are 15 parking spots on site and they have negotiated two parking license agreements with neighboring properties that are located in Hackensack. They have also entered into a valet agreement with Paragon Parking.

- Locations of the parking lots in relation to the restaurant ó the first is located at 1 Kinderkamack Road, Hackensack. They have a one year license agreement with them with two options to renew for five years each and that includes 30 parking spots and the second parking agreement is with Consulting Properties and is located at 940 Main Street, Hackensack, also a one year term with two options to renew for five years and that is an additional 50 spaces. There is a total of 65 spaces that can be used in connection with the restaurant.

- Hours of operation ó 12:00 p.m. to 2:00 a.m. They will have approximately 8 employees but that is subject to change.

- Site improvement they intend to install an ADA compliant wheelchair lift in the front of the property which will be square with the current entrance approximately 5' x 7'. A photograph of the front of the building showing door to left which will be wheelchair lift is marked as Exhibit 1.

Chairman Arakelian asks Mr. Behrens if the applicant also put in for a sign ordinance. Mr. Behrens believes they would be entitled to whatever was previously there within the same dimensions. Chairman Arakelian asks if they can amend the application to include the sign.

Carmine Teta is sworn in by Ms. Stiley. Chairman Arakelian is asking him about the sign. Mr. Teta explains that the rendering shows the old entrance ó they are going to square it off it will be approximately 16 or 18 feet wide the sign is going to be 10' x 3' with three lights over it instead of a lighted sign so its more of a contrast with the area so its not so predominant ó three barn lights over the top of the sign. They agree to work with Mr. Behrens to make sure the sign is in compliance so they can work this into the application.

There is a question as to why the ADA chairlift can't be in the back of the building Mr. Teta explains that there is no way up the stairs, the only lavatories in the building are on the second floor so it limits anyone who wants to use the facility who is in a wheelchair, crutches, walker etc. anyone who is handicapped and can't use stairs. The lift will be in the front of the building. It will be on a platform that is 36ö wide and 50ö inches deep for a wheelchair to be accessible right from the sidewalk up to the second floor of the building.

Mr. Behrens was under the impression that this part of the application at some point was withdrawn. So his question now is to accommodate the wheelchair lift it looks like there is some sort of addition at the front of the building. Mr. Teta responds - yes. And states that it does not encroach on the Town's 10 foot easement. The site starts after the 10 foot easement from behind the curb 10 feet back and that's the town property. Because its an older building it doesn't have a 20 foot setback. Mr. Teta explains that they are going to install a brand new sidewalk. Mr. Behrens states technically its within the confines of the property ó technically its within the setback but again it has the pre-

existing non-conforming condition, it doesn't it's exceeding that condition. He asks if this will go any further than the building currently encroaches. Mr. Teta responds absolutely not.

Mr. Costa: You can't go over the right-of-way line, if its over the right-of-way line you can't but it there because its a non breakaway structure. So you cannot do it even if you want to do it. So the applicant needs to find out exactly where the property line is and they need to know that its exactly not over the property line. Mr. Costa went over the ADA requirements because the restaurant is in a flood plan area and he explained that they should be exempt based upon what he read under DEP because it is for ADA. As long as they don't increase the floor area for anything else they are exempt but they can't go over the property line. He points out that the survey they submitted shows that front piece is a foot-in-half over the property line as an existing condition. So if they are holding the front facade they are a foot-in-half of the public right-of-way, which they cannot do. So they need to verify that. They need to get a surveyor, figure out where the property line is to figure out how far out they are coming out from the face of the building. Every street is a different width, wherever the right-of-way line is, is where it is based on the deed. If it can't fit he has to push everything back a foot-in-half so its on the property or just off of the property. If its over the property line they cannot get a building permit. You cannot put the lift on property they don't own.

Council for applicant inquires as to the fact that if there is a minor encroachment onto the right-a-way would it be possible to make an application for a franchise for the encroachment with the governing body? Mr. Chewcaskie explains that, that would be up to the Mayor & Council. In looking at the survey he states that it looks like the canopy in within the right-of-way, it also looks like there is a portion of the existing building within the right-of-way and the Borough wants to maintain that line. If it can be done, it can be done, it looks like it can be done from what he is seeing. If there is a minor encroachment that already exists, it exists but certainly that application can be made to the governing body. He is not sure if the Mayor & Council can join in on this, he does not know if they have done it in the past, but it has been done in other more urban areas to have these license agreements for any encroachments. Based upon what Mr. Chewcaskie is seeing there may be a minor encroachment and he does not have an issue with what is being requested.

Mayor Papaleo states that to his knowledge they have never had such an item come before the Council and he has been on the Council for about eight years and he does not see this as a major issue but he cannot speak for the entire Council.

Chairman Arakelian explains to the applicant that at this moment they have no assurances that, that is going to happen and if they are going to have that on their plan and Board moves to approve it and the applicant is not able to get that license they might have to come back before the Board or if they waive it right now and have it added on later on, the Board can amend their memorialization accordingly. Mr. Chewcaskie explains that

any approval going forward is going to be conditioned upon that any construction to be done is within the property line and if not, you are going to have to get the franchise and if you don't get the franchise you will need to come back before the Board to alter this or just conform with the property line.

Mr. Arakelian indicates that they will give the applicant the approval based upon them being able to rectify that problem or get the license and if they can't get either they are going to have to figure it out or come back before the Board to do something different.

### **Logistics of Parking for PatDom LLC – Ruugova Restaurant**

The owner of Paragon Parking, James Myulis begins to testify regarding high volume off-site parking situations. He states that they are completely portable if something is not working they have the ability to for instance as to the arrival zone, they can move that and tweak it and modify it over the course of time so that it is efficient and safe for everybody and meeting standards. They have two parking lots off-site (both of which are in Hackensack) in addition to the 15 parking spaces on the property. One site is (30 paces which does not include double parking or stacking or creative parking) spaces and is located at 1 Kinderkamack Road and the other is 940 Main Street (20 spaces which does not include double parking or stacking or creative parking) . They have in writing an agreement with Sunnyside Title Agency giving the applicant permission to use their property. He continues to testify regarding the routes.

Chairman Arakelian states that there has never been an issue regarding parking with this property and he suggest that the Board by-pass this part of the application because its not necessary. The applicant agrees to go forward with just the waiver. The resolution can make note that additional parking is being provided through a valet service its just for information and not part of any condition for approval.

(Mr. Teta goes back and forth with the Board, Mr. Chewcaskie and Mr. Costa regarding the handicap lift for a considerable amount of time.) He is upset regarding the amount of time and money this is costing him. He wants to get the handicapped lift installed sooner than later and this is causing him a delay in opening. Mr. Teta agrees to have the plans redrawn showing everything being moved to the right.

Outdoor dining is brought up and Mr Behrens states that he has not reviewed a plan for outdoor dining. Applicant attorney states that they changed their liquor license approval to assure that the outdoor dining was included. Chairman Arakelian explains that the outdoor seating was done but it was done without an approval by previous owner, they were actually required to remove a tent and bring the outdoor seating back inside because it took up parking spaces. So if the applicant wants to go with outdoor seating that is a whole other application. Mr. Teta interjects stating that an application was

submitted to the town showing outside dining. It was marked Exhibit 3. Mr. Teta submitted this himself to the town not through his attorney and it's not part of this application. It was submitted for building permits it wasn't included in the initial site plan application. Mr. Teta said it was submitted along with the liquor license (including outdoor dining) and he said everyone said it was fine. Mr. Arakelian explained that it's okay for the liquor license but it's not okay as far as the Board is concerned. This is part of the application that has to be included with the initial application. Mr. Teta states he submitted this plan to Nicole and it was handed over to Ed with the application. Ed states that he did not see this.

Mr. Behrens states that he reviewed this application right from the beginning and it was identified that you would have to specify if this never became part of the site plan application and his letter to Mr. Teta indicated that applicant would have to provide more details, that was never provided so it never became part of the site plan application.

Mr. Krey interjects with reading the letter that was sent from Burgis on February 13<sup>th</sup> listing items in the letter of denial that needed to be completed if bullet item number 3 states application should include a description of proposed use including but not limited to, hours of operation, number of employees, number of seats and a floor plan of the entire building and any outdoor seating. And that is not included in the site plan in front of the Board at this meeting.

Mr. Arakelian states that the applicant will not get approval for outdoor this evening. He suggests going forward with what they have and if the applicant wants to present a plan for outside seating, they already own the building so there is nothing the applicant is going to be able to do about that. He suggests he come back in before the Board with a plan that makes sense to the Board, get the parking agreements in place, come back before the Board, they can look at the outdoor seating plan and do it the right way. Attorney for applicant agrees to proceed with the application as is.

Motion to open to the public if So moved if Mr. Krey, second if Mr. Gibbons. All in favor if aye. Any opposed any abstained? No one from the public. Motion to close to the public if Mr. Caslin if so moved, Second if Mr. Krey. All in favor if aye. Any opposed any abstained?

Motion on the applicant if Mr. Krey makes a motion to accept the application with the conditions that the handicapped elevator will be moved within the property line and that existing parking and seating stay consistent with prior use and subject to satisfactory review by our engineer to make sure everything is good. The signs are to be conforming with the ordinance and update the existing site plan regarding the handicap lift. Second if Mr. Gibbons. Roll call - Mayor if yes with all the elements strictly enforced; Chairman Arakelian if yes; Ms. Boland if yes; Mr. Grasso- yes; Mr. Krey if yes; Mr. Caslin if yes; Councilman Chinigo - yes; Mr. Gibbons if yes; Mr. Esposito if yes. Application approved.

**Jose Carchi, Joseph's Pizzeria LLC.**

486 Kinderkamack Road, Block 804, Lots 13 & 14, no change to existing layout. Requires site plan approval.

Mr. Barrett attorney for the applicant. The applicant proposes no changes to site. The site was approved by the Board back in 2013, memorialized on October 17<sup>th</sup> and that is the site plan that the applicant submitted.

- Signage ó There was a supplemental resolution in 2013 and the signage plan was dated April 11, 2013 the permitted sign for this location is 19.83 square feet and is limited to one of three colors; white, red and black. The applicant will fully comply with the prior approval.

- Jose Carchi is sworn in as is his son Kevin Carchi Perez. The business will operate 7 days a week from 11:00 a.m. to 10:00 p.m. There will be two employees; himself and his brother. They will offer delivery service and he or his brother will be making the deliveries. All supplies for the business will be purchased by the applicant not delivered to the premises. There will be six seats in the pizzeria.

Mr. Behrens - this is a very straight forward application. There are no variances issues, there are no parking issues and the sign would just have to conform with all prior approvals.

Chairman Arakelian ó Asks the Board if they had any questions for the applicant. No questions from the Board.

Motion to open to the public ó So Moved - Mr. Gibbons, All in favor ó aye. Any opposed and abstained? No one from the public. Motion to close to the public ó So Moved ó Councilman Chinigo Second ó Mr. Krey. All in favor -aye ó any opposed and abstained?

Motion to accept the application. Mayor Papaleo ó So Moved ó Second ó Mr. Esposito. Subject to everything that was in the past. Roll Call - Mayor ó yes; Chairman Arakelian ó yes; Ms. Boland ó yes; Mr. Grasso- yes; Mr. Krey ó yes; Mr. Caslin ó yes; Councilman Chinigo - yes; Mr. Gibbons ó yes; Mr. Esposito ó yes. Application approved.

Meeting adjourned