

**BOROUGH OF DUMONT  
COUNTY OF BERGEN  
JOINT LAND USE BOARD**

**RESOLUTION GRANTING MINOR SITE PLAN AND BULK VARIANCE  
APPROVAL WITH RESPECT TO THE PROPERTY KNOWN AS  
31 WEST MADISON AVENUE  
BLOCK 1212, LOT 3, BOROUGH OF DUMONT,  
COUNTY OF BERGEN, STATE OF NEW JERSEY**

**WHEREAS**, an Application for minor site plan approval and bulk variances has been made to the Dumont Joint Land Use Board pursuant to N.J.S.A. 40:55D-70(c) by **SAYOLA, LLC**, (the "Applicant") in connection with proposed improvements upon the property commonly known as 31 West Madison Avenue, more particularly described as Block 1212, Lot 3 on the Tax Map of the Borough of Dumont, County of Bergen, State of New Jersey (the "Property"); and

**WHEREAS**, the Applicant has applied to this Board for variance relief pursuant to N.J.S.A. 40:55D-70(c) from the restrictions of the following sections of the Zoning Ordinance of the Borough of Dumont:

Ordinance Section 355-3 C (2)	Site Plan
Ordinance Section 455-35	Side Setback
Ordinance Section 455-35	Lot Coverage (Maximum)

Category	Allowed	Proposed	Variance
Side Yard	10'	3'3"	Yes
Lot coverage	70% Maximum	79.1%*	Yes

\*Lot coverage variance for 78.6% was approved in the Resolution for 31 West Madison Avenue, Block 1212 Lot 3, dated January 30, 2018

The subject Application seeks minor site plan and bulk variance approval; and

**WHEREAS**, the Application was duly considered by the Joint Land Use Board at a public hearing (via virtually and telephonically via Webex) on July 20, 2021; and

**WHEREAS**, the Applicant gave proper notice in accordance with law; and

**WHEREAS**, at said public hearings the Joint Land Use Board received the following documents in evidence:

1. Application dated May 12, 2021;
2. Resolution of Approval for 31 West Madison Avenue, Block 1212 Lot 3, dated

January 30, 2018; and

3. Architectural Plans consisting of three (3) sheets entitled: "Proposed Restaurant Addition, 31 West Madison Avenue, Dumont, New Jersey" drawing prepared, signed, and sealed by Arthur J. Michels, A.I.A. of Michels & Waldron, Associates, LLC dated October 24, 2017, last revised May 5, 2021; and

**WHEREAS**, the public had an opportunity to be heard on the Application at said hearing; and

**WHEREAS**, the Joint Land Use Board heard the sworn testimony from the Applicant's Architect, Arthur J. Michels, having an address at 645 Westwood Avenue, River Vale, New Jersey 07675, and from Applicant's owner, Lazaro Negrin, who testified in support of the Application; and

**WHEREAS**, the Board received a report on the Project dated June 29, 2021 from Carl P. O'Brien, P.E., P.P., C.M.E., C.P.W.M., Board Engineer, of Colliers Engineering and Design; and

**WHEREAS**, following the hearing held on July 20, 2021, the Joint Land Use Board approved the Application, subject to certain conditions; and

**WHEREAS**, the Board now wishes to set forth its findings, conclusions, and conditions with respect to the Application.

**NOW, THEREFORE, BE IT RESOLVED** by the Joint Land Use Board that the following facts are hereby made and determined:

1. The proceedings in this matter were stenographically transcribed and voice recorded. The facts in this Resolution are not intended to be all-inclusive but merely a summary and highlight of the complete record made before the Board.
2. The Applicant is the owner of the property commonly known as 31 West Madison Avenue, Dumont, New Jersey, and more particularly described as Block 1212, Lot 3 on the Tax Map of the Borough of Dumont. Said property is located within the "B2" Business and Commercial District pursuant to the Zoning Ordinance of the Borough of Dumont. The property is a restaurant currently operating as "La Taberna".
3. The Applicant's Attorney, Dean Stamos, Esq., presented an overview of the project stating that it is a proposed expansion of the existing basement, which will move the basement wall to within approximately 3'3" of the property line, and that the variances are with respect to planned modifications to the building that are primarily underground.

A second-floor office, which has become obsolete, will be removed. The property is currently a restaurant, and the use will not be changing. The basement expansion is for the purpose of alleviating extremely congested working conditions and for providing more work and storage space. Because the modifications are primarily underground, their impact will be de minimis.

4. In support of the Application, the Applicant's attorney, Dean Stamos, Esq., presented testimony from the Applicant's architect, Arthur J. Michels, who was sworn in by the Board, and who was accepted as an expert witness.
5. Mr. Michels testified that the project involves a further expansion of the basement, but that there will be no changes to the kitchen. A previous basement expansion was approved by the Board in 2018. He testified further that the basement will be expanded under an alleyway between the property and the adjoining property, and that there will be little to no impact on the neighboring buildings. Mr. Michels stated that Applicant will comply with all the engineering requests and recommendations in Board Engineer O'Brien's June 29, 2021 report to the Board.
6. Mr. Michels testified that the existing basement staircase that is used for egress will be reoriented and will wrap around the back of the building. There also will be a staircase to a sidewalk door opening to a private area on the property, which is intended to be used for egress, as well as to receive deliveries approximately two times per week.
7. Mr. Michels testified that the sidewalk door will be capable of supporting 300 lbs./sq. ft., which can support the weight of a fire truck, where the typical sidewalk door supports 100 lbs./sq. ft. Mr. Michels testified further that the sidewalk door will open and be locked in a vertical position and a chain will be hooked to both doors as a pedestrian guard. Further, when open, the sidewalk door will be manned and monitored while deliveries are being received, and it is not located in a public area.
8. Mr. Michels testified further that the removal of the second-floor addition will provide a clearer view and cleaner access to the property for the fire department.
9. Mr. Michels testified that the lot coverage variance granted in 2018 is for 78.6% coverage where the maximum allowed coverage is 70%. The building footprint above the ground will increase to approximately 79.1% coverage.
10. Mr. Michels testified that a leader and drain from a catch basin to capture rooftop runoff

- will loop around the building in the 3' setback along the entire length of the building, continue around the back of the building and be tied into the existing drainage system.
11. In Mr. Michels opinion, the variances requested are warranted because the benefits outweigh any detriments to the public good and neither the zone plan nor the Borough ordinances would be impaired. Further, the purposes of the Municipal Land Use Law will be advanced.
  12. At the conclusion of Mr. Michel's testimony, the meeting was opened to the public. There were no questions from the public for Mr. Michels. At that time, the testimony of Mr. Michels was closed to the public and the Board felt all concerns were adequately addressed.
  13. In support of the Application, the Applicant's Attorney, Dean Stamos, Esq. presented the testimony of Mr. Lazaro Negrin, having an address at 31 West Madison Avenue, New Milford, New Jersey 07628, the owner of Applicant. Mr. Negrin was sworn in by the Board attorney as a fact witness and testified that the basement expansion was necessary to alleviate crowded working conditions, increase the available storage space and thereby reduce the number of weekly deliveries. Presently, deliveries are received three or four times per week at a side door because there is not enough storage space. It is anticipated that the increased storage space will reduce the number of deliveries to approximately two per week. He testified further that food preparation is to take place in the basement and the additional space will streamline operations.
  14. Mr. Negrin testified further that an improved ventilation fan is to be installed on the roof of the building that is quieter than the existing, and a shock absorber mount will be installed resulting in a further noise reduction from the fan.
  15. At the conclusion of Mr. Negrin's testimony, the meeting was opened to the public. There were no questions from the public for Mr. Negrin. At that time, the testimony of Mr. Negrin was closed to the public and the Board felt all concerns were adequately addressed.

#### **CONCLUSIONS OF LAW:**

**WHEREAS**, the Board, after careful deliberation, acknowledges that the below-ground

changes will have no discernible impact on the zone plan and zoning ordinance, and found that this Application has met the requirements for minor site plan and bulk variance approval and the Board has determined that the relief sought can be granted without a substantial negative impact, provided all conditions of approval are satisfied or met; and

**WHEREAS**, The Board finds that the purposes of zoning are advanced where the proposal promotes the upgrading of the area through creative development techniques and good civic design and arrangement and complies with the Borough's site plan ordinance. The Board concludes and agrees that the site can operate safely with the proposed improvements.

**NOW THEREFORE**, be it resolved by the Joint Land Use Board of the Borough of Dumont that the within Application for minor site plan and bulk variance approval shall be granted subject to the following conditions:

#### **CONDITIONS SPECIFIC TO THE APPLICATION**

1. Applicant shall comply with the requirements of the Board Engineer's review correspondence dated June 29, 2021.
2. Applicant shall request that the Borough fire marshal review and opine on the project.

#### **GENERAL CONDITIONS**

1. The Applicant shall comply with all the stipulations made during the hearing on this Application.
2. The Application must comply with the necessary requirements of the zoning ordinances of the Borough of Dumont and the Municipal Land Use Act of the State of New Jersey, N.J.S.A. 40:55D-2 et seq.
3. The Applicant shall develop, prepare, and improve the subject premises so as to conform with all of the details shown on the aforementioned plans and submissions, as presented to the Board and in accordance with the zoning ordinances, building codes and all other standards and ordinances unless expressly stated to the contrary within the approvals granted.
4. No building structure or land shall be occupied until such time as the Zoning Officer of the

Borough of Dumont shall issue a final Certificate of Zoning Compliance to ensure compliance with the Board's decision.

5. Unless otherwise addressed herein or at the hearing held on July 20, 2021, the Applicant shall comply with the recommendations of the Board's professional and any other post-approval reports. The Applicant's professionals shall amend the architectural plans to reflect these recommendations in the form of drawing detail and/or written construction note detail format as necessary. In addition, the Applicant's professionals shall amend any engineering reports, engineering calculations that were presented as a part of the testimony before the Board as necessary and/or required by the Board Engineer and the Board Planner. All such amendments shall be submitted to the Board Engineer and Board Planner for review within thirty (30) days of the adoption of this Resolution. A Planting Plan shall be submitted to the Board Planner for her approval. Failure to provide same within this period may result in this Resolution being declared null and void.
6. Within thirty (30) days of the approval of this Resolution by the Board, the Applicant shall, if necessary, post any additional escrow funding that may be required to reimburse the Borough's professionals for the review of this Application. Failure to provide such escrow fees may result in this Resolution being declared null and void.
7. The completed revised plans and submissions must be approved and signed by the Board Chairman, and Board Secretary, prior to submission to the Zoning Officer of the Borough of Dumont Certificate of Zoning Compliance, and prior to the issuance of any building permits.
8. The Applicant is responsible for publishing notice of this decision as required by the M.L.U.L.

This Application was approved by the Joint Land Use Board at its regular meeting on July 20, 2021 upon motion of Board Member, KEJ ARELLANO and seconded by Board Member, NIO APANASIO upon the roll call as follows:


Ayes: 9  
Nays: 0  
Absent: 0

Abstain: 0

**ROLL CALL:**

Nico Attanasio	Class I	Y
Rafael Riquelme	Class II	Y
Jimmy Chae	Class III	Y
Kenneth Armellino	Class IV	Y
Graeme Dutkowsky	Class IV	Y
Ken Melamed	Class IV	Y
Alfred Moriarty	Class IV	Y
Andrew Warta	Class IV	Y
Gino Zilocchi	Class IV	Y

This Resolution was adopted on the 17<sup>th</sup> day of August, 2021 upon the motion of AL MORIARTY and seconded by NICO FRANKSIO by a vote of 8 Ayes and 0 Nays.

  
Graeme Dutkowsky, Chairman

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the Applicant, Borough Clerk, Construction Code Official and Zoning Officer of the Borough of Dumont.

I do certify that this is a true and correct copy of the Resolution as adopted by the Joint Land Use Board of the Borough of Dumont, County of Bergen and State of New Jersey in the within Application.

  
Rebecca Vazquez, Secretary