

**RESOLUTION OF APPROVAL FOR AMENDED PRELIMINARY
AND FINAL SITE PLAN APPROVAL WITH BULK VARIANCES,
AND/OR WAIVERS**

APPLICANT: SAYOLA, LLC
LA TABERNA RESTAURANT

PREMISES: 31 WEST MADISION AVENUE
BLOCK 1212; LOT 3

WHEREAS, the within Application is brought before the Board by the Sayola, LLC, which owns the Property, and operates La Taberna Restaurant, at 31 West Madison Avenue, Dumont, New Jersey; and

WHEREAS, the Property is located in the “B-2” Business Zone of the Borough; and

WHEREAS, La Taberna made an application to the Joint Land Use Board of the Borough of Dumont for Preliminary and Final Major Site Plan and variances, which application was heard by the Board at public hearing on January 30, 2018 (hereinafter, “the Hearing” or “Public Hearing”) for the expansion of the restaurant kitchen; and

WHEREAS, the Applicant sought a 10’ x 25’ expansion of the restaurant’s kitchen as well the construction of a contiguous 4.5’ stair:

WHEREAS, in connection with the aforesaid development, the Applicant requires the following approvals, variances, and/or design waivers:

- Preliminary and Final Site Plan Approval.
- Lot Coverage as 70% is permitted, 72.8% is existing, and 78.6% is permitted.
- Parking as the 293 square foot addition requires an additional 390 square feet of parking.
- Loading Area as 1 loading area is required, 0 are existing and 0 are proposed.
- Side yard setback as 10’ is required, 6’ are existing, and 7’ is proposed.
- The waiver of various submission requirements.

WHEREAS, the Applicant and the Board introduced the following Exhibits into evidence:

- Exhibit A-1** 6 Page Preliminary and Final Site Plan, prepared by Michels & Waldron, dated October 24, 2017;
- Exhibit A-2** 6 Page Preliminary and Final Site Plan, prepared by Michels & Waldron, dated January 30, 2018;
- Exhibit A-3** Correspondence from Alan Silverman, dated January 17, 2018;
- Exhibit A-4** Colorized Version of Page 1 of 3 of the Landscape Plan
- Exhibit A-5** Planning Report, dated October 17, 2018, prepared by Perry E. Frenzel;

WHEREAS, Planning Board Engineers, Boswell McClave Engineering, Dennis Harrington, PE, submitted a Letter Report, dated November 20, 2018, which report was accepted into evidence and made part of the submission; and

WHEREAS, at Public Hearings, the following relevant testimony was adduced through Applicant's counsel, Stephen A. Geffner, Esq., ("Geffner"), of the law firm of Schenk, Price, Smith and King, utilizing the following witnesses: 1) Lazaro Negrin ("Negrin"); 2) Perry Frenzel, PE, PP, (hereinafter, "Frenzel"); 3) Art Michels, AIA, (hereinafter, "Michels"); Additional testimony was provided by Dennis Harrington, PE of Boswell Engineering ("Boland"); and

The proceedings in this matter were voice recorded. The Testimony, Statements of Fact and Findings of this Resolution are not intended to be all inclusive but merely a summary and highlight of the complete record made before the Board.

1. Geffner set forth the background of his client's ownership and use of the Property. He indicated that the uses on the Property currently contains several structures, but that the Application only concerns La Taberna and is for the purpose of providing an expanded kitchen and contiguous stairway and for the purpose of expanding the second floor apartment. There is no change to parking or loading areas and a variance/waiver is required as to these issues.
2. Negrin testified that he was the owner of Sayola, LLC, which owns the Property and the La Taberna restaurant. He indicates that the restaurant has been in operation for approximately 6 months and that he needs a larger and safer kitchen. Original plans proposed a 14' x 21' kitchen which was reduced during revisions and in consideration of the fire official's correspondence to a 10' x 21' addition. Each of these designs included a contiguous stairway (in a different configuration) to reach the basement and second floor). In both cases, the stairway was 4.1' wide.
3. Negrin testified that the addition would not provide additional seating in any way and was to assure that there was a somewhat bigger and more useful kitchen. No additional parking or loading is implicated by the Application.
4. Michels testified as to the configurations of the proposed kitchen and the reduction in the size of the addition presented in A-2. This reduction conforms to the request of the Fire Official as set forth in A-3. He also testified that a "flush – sidewalk door" would be provided in the area next to the addition. Lighting would be provided by wall mounted lighting for pedestrian safety.

5. Frenzel testified as both an Engineer and Planner. He testified as to drainage and indicated there was no change in impervious coverage and runoff from the Property is the same as present. Minimum Side Yard setback was 6-7', where 10' is required.
6. As a Planner, Frenzel testified that the kitchen was unsafe and overcrowded. He opined that the Applicant was entitled to relief as both a (c)(1) or (c)(2) variance. He indicated that there was a hardship related to the lack of space on the Property due to the location of the lawfully existing structure. Moreover, the provision of a safe proper working area advances the purposes of zoning. He also testified that there is no negative impact of the requested variances. There is no change in seating or increase in customers in the restaurant at any time.

CONCLUSIONS AND DETERMINATIONS

1. The Applicant requires the following approvals, variances or waivers:
 - Preliminary and Final Site Plan Approval.
 - Lot Coverage as 70% is permitted, 72.8% is existing, and 78.6% is permitted.
 - Parking as the 293 square foot addition requires an additional 390 square feet of parking.
 - Loading Area as 1 loading area is required, 0 are existing and 0 are proposed.
 - Side yard setback as 10' is required, 6' are existing, and 7' is proposed.
 - The waiver of various submission requirements.
2. N.J.S.A. 40:55D-70(c) (2) provides that a variance may be granted where the Board finds that the purposes of the Municipal Land Use Law ("MLUL") would be advanced by a deviation from the zoning requirements and that the benefits of the deviation would substantially outweigh any detriment. The standard is no different for waivers. The Board finds that the benefits of the proposed improvements substantially outweigh any possible detriment that could occur by the granting of the waivers and variance. The Board further finds, based upon the testimony of the Applicant's experts and its own determination, that the purposes of the MLUL would be advanced by virtue of a grant of variance from the requirements of the Borough's zoning ordinances as follows:
 - (a) N.J.S.A. 40:55D-2(a) by promoting the development of land in a manner which will promote public health, safety and general welfare.
3. N.J.S.A. 40:55D-2(c) by providing adequate light, air and open space. The Application does not compromise any of these concerns and the addition is accomplished by the least intrusive means to provide additional parking.

4. N.J.S.A. 40:55D-2(i) by promoting a desirable visual environment through creative development techniques and good civic design and arrangement. The use of the addition at a limited size without overcrowding or overdevelopment is without detriment to neighbors or adjoining property owners.
5. The Board finds there is no substantial detriment to the zone plan or zoning ordinance to the granting of the requested variances, waivers or deviations.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief is approved by this Board subject to the conditions set forth below:

- A. Compliance with the recommendations of the Fire Official.
- B. The Applicant shall comply with the requirements of the Board Engineer.
- C. Applicant shall investigate the provision of a trench drain and the connection of roof leaders into the Borough catch basin. All sheet flow will be collected and piped to the greatest possible extent in the view of the Board Engineer.
- D. Applicant shall replace damaged sidewalks on Park Avenue. The need to replace sidewalks or portions thereof shall be in the absolute discretion of the Board Engineer.
- E. The Flush Door located near the addition shall conform to the requirements of the Board Engineer with specific regard to the ability of the door to bear the weight of emergency vehicles.
- F. The Planning Board Engineer's reports previously set forth shall be complied with by the Applicant in accordance with the terms and conditions of this Resolution and the plan aforesaid.
- G. The Applicant shall comply with all other applicable Federal, State, County and Municipal rules and regulations.

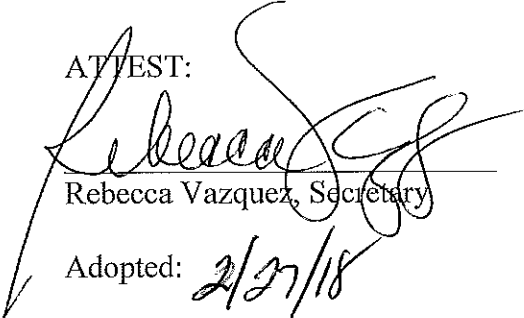
This Application was approved by the Dumont Joint Land Use Board upon a roll call vote of all members eligible to vote at its regular meeting on January 30, 2018.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Joint Land Use Board of the Borough of Dumont upon a roll call vote at its regular meeting held on February , 2018.

A copy of this Resolution shall be given to the Tax Assessor, Applicants (through counsel), Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

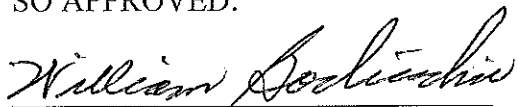
A NOTICE OF THE ADOPTION OF THIS RESOLUTION AND THIS DETERMINATION SHALL IMMEDIATELY BE PUBLISHED IN THE BOROUGH'S NEWSPAPER OF RECORD BY THE APPLICANT.

ATTEST:


Rebecca Vazquez, Secretary

Adopted: 2/27/18

SO APPROVED:


William Bochicchio, Chairman