

Regular Public Meeting of the Englewood Cliffs Planning Board
Minutes
June 9, 2016

The Regular Meeting of the Englewood Cliffs Planning Board was called to order by Chairman Fehre at 7:30 PM.

Present at Roll Call:

Mr. Fehre
Mr. Villari
Mr. Trovato
Mr. Kilmartin
Mrs. Rosenberg
Mrs. O'Shea – Borough Rep
Mr. Kim – 1st Alternate
Mr. Porrino – 2nd Alternate
Mr. Lee – 3rd Alternate
Mr. Hutchins – 4th Alternate
Councilman Park
Ms. Eastwood – Mayor Designee

Absent:

Mr. Chinman
Mayor Kranjac

Also Present:

Michael Kates, Esq., of Kates Nussman Rapone Ellis & Farhi, the Board's attorneys.

Public notice of this meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, The Star Ledger, and posting of notice on the municipal building bulletin board at 482 Hudson Terrace.

Flag salute led by Mrs. Rosenberg

The minutes of the May 12th & 24, 2016 meetings motioned by Mr. Villari, seconded by Mrs. O'Shea were approved by voice vote.

Old Business:

Application #266K - Amended Site Plan and Variance
Bank of New Jersey – 744 Palisade Avenue –Block 512–Lot 4,5,6
Resolution - Approved

Mr. Kates, Board Attorney, read the resolution which is incorporated herein as though fully stated and made a part hereof. The Chairman asked for a motion to approve. Motion was made by Mrs. Rosenberg, seconded by Mr. Kim. Chairman asked for roll-call vote of the members that were eligible to vote: Mr. Fehre, Mr. Trovato, Mrs. Rosenberg, Mr. Kim, Mr. Porrino, Mr. Lee, Mr. Hutchins, Mrs. O'Shea, and Ms. Eastwood each voted to adopt this Resolution; it was unanimous.

Application #263K - "D3" Use Variance & "C" Variance for Parking
JooASoo, LLC – 11 Sylvan Avenue – Block 134 – Lot 3.01
Resolution – Approved

Mr. Kates, Board Attorney, read the resolution which is incorporated herein as though fully stated and made a part hereof. The Chairman asked for a motion to approve. Motion was made by Mr. Porrino, seconded by Mr. Villari. Chairman asked for roll-call vote of the members that were eligible to vote: Mr. Fehre, Mr. Villari, Mr. Trovato, Mrs. Rosenberg, Mr. Kim, Mr. Porrino, and Mr. Lee each voted to adopt this Resolution; it was unanimous.

Application #257K - Site Plan Approval w/Variances
FCA Realty, LLC – 100 Sylvan Avenue – Block 130 – Lot 23

Application #258K - Site Plan Approval w/Variances
FCA Realty, LLC – 120 Sylvan Avenue – Block 130 – Lot 24

Mr. Kates informed the board that the applicant has filed a civil complaint against the board. Once he receives the actual documents he will review and inform the board of the situation.

Chairman Fehre asked for a motion to dismiss application #257K & 258K without prejudice. Motion was made by Mr. Porrino, seconded by Mr. Lee. This motion was approved by roll-call vote, 12 Ayes, (Mr. Fehre, Mr. Villari, Mr. Trovato, Mr. Kilmartin, Mrs. Rosenberg, Mr. Kim, Mr. Porrino, Mr. Lee, Mr. Hutchins, Mrs. O'Shea, Councilman Park, and Ms. Eastwood), No Nays, No Abstentions.

New Business:

Chairman Fehre informed the board the he would like to set up a Finance Committee to review all invoices and budget items. He had chosen Mr. Trovato, Mr. Porrino, Mrs. O'Shea and himself. When we have the Review Committee meetings on the Tuesday approx. 2 weeks before our meeting we will go over finance items as well.

Mr. Porrino asked Mr. Kates if he was willing to bill for the litigation that the board is now getting served with at the \$200.00 per hour rate instead of the \$250.00 per hour rate for litigation due to budgetary constraints. Mr. Kates agreed to this but mentioned that the Planning Board has no money in the litigation line of the budget that will have to be addressed.

Chairman Fehre asked for a motion to open to public. Motion was made by Mrs. Rosenberg, seconded by Mr. Porrino and carried unanimously by voice vote.

No Comments.

Chairman Fehre asked for a motion to close to public portion and adjourn the meeting at 8:15 pm. Motion was made by Mr. Kilmartin, seconded by Mrs. Rosenberg and carried unanimously by voice vote.

Respectfully submitted



Caterina Scancarella
Planning Board Administrative Secretary

ENGLEWOOD CLIFFS PLANNING BOARD
REGULAR MEETING – June 9, 2016 7:30 PM

10 Kahn Terrace, Englewood Cliffs, NJ

CALL TO ORDER

The meeting of the Englewood Cliffs Planning Board will come to order this (date). The time is (time).

"OPEN PUBLIC MEETINGS ACT" STATEMENT

Public notice of this meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, and Star Ledger posting of notice on the Borough Hall bulletin board at 482 Hudson Terrace, Englewood Cliffs.

ROLL CALL

FLAG SALUTE LED BY:

APPROVAL OF MINUTES: May 12 and May 24, 2016

OLD BUSINESS:

Application # 266K - Amended Site Plan and Variance
Bank of New Jersey – 744 Palisade Avenue – Block 512 – Lot 4, 5, 6
Resolution – Approved

Application # 263K – “D3” Use Variance & “C” Variance for Parking
JooASoo, LLC – 11 Sylvan Avenue – Block 134 – Lot 3.01
Resolution - Approved

Application #257K - Site Plan Approval w/Variations
FCA Realty, LLC – 100 Sylvan Avenue – Block 130 – Lot 23

Application #258K - Site Plan Approval w/Variations
FCA Realty, LLC – 120 Sylvan Avenue – Block 130 – Lot 24

NEW BUSINESS:

COMMUNICATIONS

COMMITTEE REPORTS

PUBLIC COMMENTS OTHER THAN HEARING ON THIS AGENDA

ADJOURNMENT

ORIGINAL

PLANNING BOARD

BOROUGH OF ENGLEWOOD CLIFFS

IN THE MATTER OF THE APPLICATION OF BANK:

OF NEW JERSEY FOR AMENDED SITE PLAN : MEMORIALIZATION RESOLUTION

APPROVAL AND ANCILLARY VARIANCES, : APPLICATION NO. 266K

RELATING TO LOTS 4, 5 & 6 IN BLOCK 512, :

744 EAST PALISADE AVENUE :

WHEREAS, BANK OF NEW JERSEY, of 1365 Palisade Avenue, Fort Lee, NJ 07024, applied on or about April 28, 2014 to the Planning Board of the Borough of Englewood Cliffs for amended site plan approval with ancillary variances to construct a two (2) story full-service retail banking operation with drive through operations, in the "B-4 Business" zoning district; and

WHEREAS, a public hearing was conducted on May 24, 2016, upon proper notice certified by applicant's proof of service to property owners within a 200-foot radius of the subject property and proof of publication in an official newspaper of the Borough; and

WHEREAS, applicant was represented Mark J. Sokolich, Esq., 1223 Anderson Avenue, Fort Lee, NJ 07024; and

WHEREAS, the only interdepartmental communication and advisory reports of municipal departments and agencies was engineering review letter dated May 23, 2016 from the Board's consulting engineer Andrew R. Hipolit, P.E., P.P., C.M.E., of Maser Consulting, P.A., 400 Valley Road, Suite 304, Mount Arlington, NJ 07856; and

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WHEREAS, the following exhibits were admitted into evidence:

Exhibit A-1 – Sheet 2.2 entitled “Site Plan” of Amended/Preliminary/Final Site Plan prepared by **Calisto J. Bertin, P.E.**, of Bertin Engineering, 66 Glen Avenue, Glen Rock, NJ 07452, dated April 11, 2014 with latest revision April 8, 2015;

Exhibit A-2 – Sheet 2.2 entitled “Site Plan” of Amended/Preliminary/Final Site Plan prepared by **Calisto J. Bertin, P.E.**, dated April 11, 2014 with latest revision April 6, 2016;

WHEREAS, admitted without exhibit references were the following:

- Application dated April 18, 2016, with Appendix;
- Sheet A-203 entitled “Drive-Thru Canopy Plan, Elevations and Details” of Architectural Plans prepared by **Conrad Roncati, Jr., R.A.**, Architectura, Suite 600, 2 Executive Drive, Fort Lee, NJ 07024, dated March 23, 2015 with latest revision April 11, 2016;
- Amended/Preliminary/Final Site Plan prepared by **Calisto J. Bertin, P.E.**, dated April 11, 2014 with latest revision April 6, 2016, unless otherwise noted, consisting of eight sheets, as follows:
 - Sheet C1.0 – Cover Sheet;
 - Sheet C2.1 – Demolition & Soil Erosion Control Plan;
 - Sheet C2.3 – Grading, Utility, Drainage & Soil Erosion Control Plan;
 - Sheet C2.4 – Landscape & Lighting Plan;
 - Sheet C2.5 – Truck Circulation Plan;
 - Sheet C3.1 – Site Details;
 - Sheet C3.2 – Drainage & Grading Details; and
 - Sheet SV-1 – Boundary and Topographic Survey dated November 20, 2012 with latest revision August 20, 2014;
- Prior Resolutions of the Planning Board dated June 27, 2013 and September 11, 2014;
- Stormwater Drainage Calculations prepared by **Calisto J. Bertin, P.E.**, dated April 23, 2014 with latest revision April 6, 2016; and
- Drainage Area Map – Existing and Drainage Area Map – Proposed, unsigned and undated; and

WHEREAS, testimony in support of the application was given by **Calisto J. Bertin, P.E.**; and

Michael O’Krepky, P.E., Maser Consulting, P.A. questioned the witness on behalf of the Board and gave testimony; and no member of the public questioned the witness or commented on the application; and

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WHEREAS, the Planning Board did consider the testimony and evidence presented, the following are the findings of fact and conclusions of the Board:

1. Bank of New Jersey Bank ("BNJ") returns to the Board for a second amendment to its site plan approved in May of 2013. At that time, BNJ sought to restore the site similar to when Bank of America (formerly United Jersey Bank) operated its branch bank with drive-through lanes. To the extent not inconsistent herewith, the Board incorporates its findings of fact and conclusions as set forth in the memorializing resolution of June 27, 2013. By August 2014, BNJ had acquired adjoining property which it intended to incorporate into its approved location. It added Lots 5 and 6, which permitted a drive-through facility and other site amenities. The amended site plan also added a second story of 6,642.9 square feet, allowing additional office space for expanded bank services.

2. In the previous application it was determined that Bank of America and its drive-through facility preexisted, that the structures remained on the site, and, notwithstanding the discontinuance of Bank of America's branch, it could not be concluded that the drive-through facility was abandoned. Thus, the Board further concluded that a new conditional permit was not necessary. It was unclear from the proofs whether the drive-through facility predated the conditional use treatment of Code Section 30-6(d); and may be that the drive-through facility was entitled to recognition as a preexisting non-conforming use under N.J.S.A. 40:55D-6B. In any event, it has been sanctioned and it does not have to be revisited by this application.

3. The prior approval also included variances which run with the land and need not be revisited. They were for front yard parking (not allowed by §39-10.1.i.; deficient onsite parking spaces (66 spaces required; 47 proposed); and deficient parking space setback (10 feet lot line required by §39-10.2.g.; 1.9 feet proposed). To the extent not inconsistent herewith, the Board incorporates its findings of fact and conclusions as set forth in the prior memorializing resolutions.

4. Instead, BNJ returns to the Board after discovering that the drive-thru canopy has deteriorated to the point of being unsafe. The amended site plan replaces it and reduces its size. In addition, BNJ again acquired adjoining property to incorporate into its site plan. It lessens the variance for deficient parking by allowing eight (8) additional onsite spaces. The site is currently under construction.

5. The project is located at 744 E. Palisade Avenue, Block 512, Lots 4, 5 & 6, Englewood Cliffs, New Jersey. It is located in the B-4 Business District and fronts on three roads, E. Palisade Avenue and Hudson Terrace, which are County roads, and Kahn Terrace. Block 512, Lots 4, 5 & 6 (the "Site") is located on the southwestern corner of the intersection of Palisade Avenue and Hudson Terrace and with lots 5 & 6 extends the full block to the south with frontage on Kahn Terrace. The Site is fully developed with the discontinued and vacant building, parking lot, drive-through lanes and other amenities. Access and egress points to the property are located on Palisade Avenue and Hudson Terrace.

6. The amended plan offers planning opportunities, with no detriments. In the previous application the existing and proposed lot coverage was 16.68% and 17.09%. In the amended application the lot coverage is 14.0% to 15.2%. Impervious coverage is increased by 1,035 sq ft.

7. The site plan will be amended to show three (3) ADA compliant parking stalls. Applicant shall also provide spot grades within the parking stalls showing conformance with ADA guidelines.

8. Applicant shall provide stormwater management retention for the site in compliance with Section 30-7.14 which has a zero runoff requirement for all proposed grading and paving applications.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Englewood Cliffs, that the within developmental application be, and the same is hereby, granted, subject to the following conditions:

CONDITIONS SPECIFIC TO THIS APPLICATION

A. To the extent not inconsistent herewith, applicant shall satisfy all previous conditions imposed by this Board in its Resolutions of June 27, 2013 and September 14, 2014.

B. Applicant shall comply with all conditions set forth by the Borough Engineer in his review letter May 23, 2016 and as site conditions warrant during construction.

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C. No vegetation shall be planted in a manner that could impair sight lines.

MOTION BY: MR. PORRINO

SECONDED BY: MS. O'SHEA

IN FAVOR: MR. PORRINO, MS. O'SHEA, MR. TROVATO, MS. ROSENBERG, MR. CHINMAN, MR. KIM, MR. LEE, MR. HUTCHINS, MS. EASTWOOD and MR. FEHRE

OPPOSED: NONE

DATE APPLICATION APPROVED: MAY 24, 2016

DATE RESOLUTION APPROVED: JUNE 9, 2016



**EDWIN FEHRE, CHAIRMAN
PLANNING BOARD**

Attest:



**CATERINA SCANCARELLA
PLANNING BOARD SECRETARY**

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ORIGINAL

PLANNING BOARD

BOROUGH OF ENGLEWOOD CLIFFS

IN THE MATTER OF THE APPLICATION OF :
JOOASOO, LLC FOR CONDITIONAL USE AND : MEMORIALIZATION RESOLUTION
VARIANCE APPROVAL RELATING TO LOT 3.01 : APPLICATION NO. 263K
IN BLOCK 134, 11 SYLVAN AVENUE :

WHEREAS, JOOASOO, LLC, with business offices at 2465 2nd Street, Fort Lee, NJ 07024 applied to the Planning Board of the Borough of Englewood Cliffs on or about March 10, 2016, amended April 18, 2106, for a conditional use variance pursuant to N.J.S.A. 40:55D0-70d(3), together with site plan approval, to occupy an existing, unoccupied commercial building as and for a restaurant with deficient on-site parking; in the "B-3 Special Retail" Zoning District as to the front portion of the property and the "RB-1 Residential" Zoning District as to the rear portion of the property; and

WHEREAS, a public hearing was conducted on May 24, 2016, upon proper notice certified by applicants' proof of service to property owners within a 200-foot radius of the subject property and proof of publication in an official newspaper of the Borough; and

WHEREAS, applicant was represented by Susan M. Lee, Esq., 210-A Sylvan Avenue, Suite 1, Englewood Cliffs, NJ 07632; and

WHEREAS, interdepartmental communications and advisory reports of municipal departments and agencies were accepted as part of the record, as follows:

• Certification of Taxes Paid dated March 8, 2016 by Vincent Buono, Tax Collector, certifying payment of taxes through the 1st quarter, 2016;

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- Denial of Application by Paul Renaud, Zoning Officer, dated February 22, 2015, denying the application for the reasons stated therein; and
- Engineering review letters dated May 12, 2016 and May 16, 2016 from the Board's consulting engineer Andrew R. Hipolit, P.E., P.P., C.M.E., of Maser Consulting, P.A., 400 Valley Road, Suite 304, Mount Arlington, NJ 07856; and

WHEREAS, admitted into evidence were the following exhibits:

Exhibit A-1 through A-10 – Color photographs of the subject property taken by Susan M. Lee, Esq.;

Exhibit A-11 – Six color photographs of Dong Bang Grill, Fort Lee, taken by Susan M. Lee, Esq.;

Exhibit A-12 – Four color photographs of River Palm Restaurant, Edgewater, taken by Susan M. Lee, Esq.;

Exhibit A-13 – Four color photographs of Ko Ryeo Grill, Fort Lee, taken by Susan M. Lee, Esq.;

Exhibit A-14 – Color photograph of Grissini Restaurant, Englewood Cliffs, taken by Susan M. Lee, Esq.; and

Exhibit A-15 – Seven color photographs of applicant's existing restaurant, the Tea Bar, Fort Lee, taken by Susan M. Lee, Esq.;

WHEREAS, admitted into evidence without exhibit references were the following:

- Application dated March 10, 2016, amended April 18, 2016, with Exhibits;
- Deed dated December 18, 2002 vesting title in Neoto Group;
- Prior Resolution of the Planning Board in the matter of the application of Neoto Corp, adopted September 11, 2008;
- Final Plat Map No. 9516 prepared by Steven J. Collazuol, P.E. of John E. Collazuol & Associates, 1610 Center Avenue, Fort Lee, NJ, filed in the Bergen County Clerk's office on January 20, 2010; and
- Current photographs of the property;
- Proposed Plans prepared by UKim Architect, 300 Sylvan Avenue, 2nd Floor, Englewood Cliffs, NJ 07632, dated February 16, 2016 with latest revision April 11, 2016, consisting of two sheets, as follows:
 - Sheet A-1 – Plot Plan, Zoning Analysis, Floor Area Schedule, Site Plan; and
 - Sheet A-2 – Floor Plans; and

WHEREAS, testimony in support of the application was given by applicants Il Joong Kim, of UKim Architect, 300 Sylvan Avenue, 2nd Floor, Englewood Cliffs, NJ 07632; and by Joo Hen Lee,

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the owner and operator of Tea Bar in Fort Lee, the restaurant intended to be relocated to the subject site, who resides at 2465 Second Street, Fort Lee, NJ; and the following persons questioned the witnesses or commented on the application: Mary O'Shea, 12 Irving Avenue, and Denise Angelo, 10 Irving Avenue; and

WHEREAS, the Planning Board did consider the testimony and evidence presented, the following are the findings of fact and conclusions of the Board:

1. Applicant is proposing to establish a restaurant in a commercial building that was formerly a hair salon and has been vacant since its purchase by Neoto Corp. in 2003. The development plan includes the addition of two (2) decks on the second story roof, a new ADA-compliant access ramp and a covered entrance way, and expansion of the parking area. As part of the major subdivision approved in 2008 (Application No. 1072), applicant is also proposing to remove a portion of the existing structure from Lots 10.01 and 10.02.

Variances

2. Restaurants are permitted conditional uses in the B-3 "Special Retail" Zoning District, as per Code Section 30-5.6.b.1. The conditional use specifications for restaurants in the B-3 Zone are as follows:

	<u>Required</u>	<u>Proposed (or existing)</u>
Minimum lot size	10,000 sq ft	12,606.21 sq ft
Minimum lot width	100 feet	124± feet
Minimum lot depth	100 feet	103± feet
Front yard	20 feet	44.72 feet
Rear yard	20% of lot depth	5.25 feet (an existing condition)
Side yard	15 feet	Conforming, but for existing parking
Maximum coverage	33 1/3 %	14%
Building height	2 stories, 30 feet	2 stories, 35 feet*
Off-street parking	23 spaces ¹	10 spaces*

Treated below as Variances. All other conditions are conforming.

¹ 1 space per 3 seats plus 1 space per each employee on the peak shift.

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3. The proposed 10 off-street spaces set forth above are denoted as spaces 1, 2, 3, 4, 10, 11, 12, 13, 21 and 22 on the site plan. The remaining seventeen (17) spaces are insufficient to qualify as off-street spaces because they are stacked behind the enumerated spaces, incapable of being maneuvered if there vehicles parked in the enumerated spaces. So-called "stack" parking is not prohibited per se. Instead, the general standards for review of all conditional uses include the following:

30-8 CONDITIONAL USES.

a. General Requirements.

7. The use shall provide safe and efficient vehicular and pedestrian circulation with access and egress designed to eliminate any traffic safety hazards entering and exiting the site; and so designed as not to cause traffic congestion on abutting streets.

The Board has interpreted this provision as disallowing stacked parking and thus necessitating a variance from the aforesaid requirement of 1 space per 3 seats plus 1 space per each employee on the peak shift. The variance is under N.J.S.A. 40:55D-70d(3).

4. The Board is aware that the conditional use criterion is substantially similar to the general criterion set forth in Schedule B of Code Section 30-10 entitled "OFF-STREET PARKING AND LOADING". In Lincoln Heights v. Tp. of Cranford, 314 N.J. Super. 366 (Law Div. 1998), the court found that where a grocery making a conditional use application to build in a residential zone sought waivers only from requirements affecting such matters as signage, lighting, parking lot stall size and landscaping, which were site plan design standards and applicable under the ordinance to all uses in all zones, they were not specific conditional use standards. *Id.* at 376-377. So it is at least arguable that the stricter requirements attendant to a d(3) "Use" variance can be dispensed with in favor of a variance under N.J.S.A. 40:55D-70c.

5. However, the Board had no difficulty unanimously approving the deficient parking under the d(3) standard, as follows:

In the absence of any deviation from the enumerated conditions, the site is presumptively suitable. Thus, where a condition cannot be met, the Board must treat a conditional use which cannot meet conditions as closer in nature to a permitted use than a prohibited use.

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- In Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285, 297 (1994) the Court stated that a conditional use applicant's inability to comply with some of the ordinance's conditions need not materially affect the appropriateness of the site for the use. Accordingly, proofs to support a conditional use variance need only justify the municipality's continued permission for a use notwithstanding a deviation from one or more conditions of the ordinance which suggest that the site itself might well be unsuitable for the use.
- Here, applicant has stipulated its consent to two conditions that will neutralize the parking deficiency and any adverse effects on surrounding residential properties. The first is the employment of valet parking. The second is prohibiting parking of patrons' cars on the abutting residential streets. The Board notes the following reference to "attendant parking" in Code Section 30-10.2 entitled "Standards for Parking Spaces and Parking Areas":

n. Where the nature of the building and establishment is of a kind where attendant parking is appropriate and the owner or operator has established that such facility is likely to continue and exist substantially unchanged as it affects attendant parking for a period of ten (10) years, and the owner or operator of the premises has made and will continue to make provision for attendant parking during hours when fifty (50%) percent or more of the spaces are in use, then attendant parking shall be permitted; provided, that there shall be submitted at the time of site plan approval a workable plan which includes sufficient number of stalls of standard size to meet the parking standards contained herein, and in addition, sufficient aisles and turnaround areas to enable attendants to maneuver vehicles in and out of the area containing the necessary number of stalls, without requiring the attendant to utilize streets, public areas or sidewalks for maneuvering of vehicles, and so that the use of the parking area will not be hazardous to the pedestrian utilizing the adjoining walkways.

The Board is satisfied that applicant will provide a workable attendant parking plan consistent with the above standards.

6. The Board notes parenthetically that there is no parking in the front yard, which would be prohibited by Code Section 30-10.1.1.
7. The existing structure bears a height of 35 feet, whereas the conditional use criteria for restaurants limit height to 30 feet. Accordingly, the building's existing height and the use of the entire building for the restaurant (whether or not occupied by patrons) engenders a d(3)

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"Use" variance. Because the structure exists at a height of 35 feet and is not being newly constructed, the variance is not to be construed under N.J.S.A. 40:55D-70d(6) as a separate "Use" variance predicated on height more than 10% of the allowable height.

8. As a preexisting condition, the 35-foot height of the structure is imprinted on the neighborhood and should not be allowed to defeat this application. Again, restaurant use is permitted, not prohibited. The addition of two (2) decks on the second story roof can be problematical; but applicant has agreed to prohibit outdoor table service and seating, as well as no smoking or music on the decks, and deck access will be closed to patrons after 8:30 pm.

Site Plan Considerations

9. **Lot repaving; curbs and sidewalks.** Applicant originally did not show any improvements to the existing parking lot. The parking lot is cracked and has not been properly maintained. Applicant has agreed to mill and repave, not patch, in order to restore the parking lot to its original condition. In addition, to the extent they exist, applicant shall replace and damaged curbs and sidewalks in accordance with Borough specifications. Applicant shall provide top and bottom elevations of curbing. With respect to that parking spaces 16 and 19, they shall be moved to avoid being less than one (1) foot away from the structure, and bollards shall be installed to prevent vehicular traffic from hitting the structure or the proposed fire escape steps. The site plan/architecturals shall be revised to reflect these conditions and modifications.

10. **Landscaping.** Applicant originally did not propose any landscaping. Code Section 30-7.10(g) requires planting material to be installed in the buffer areas. Subject to testing the depth of rock, applicant will plant Leland cypress trees of their equivalent, 7 to 8 feet on planting, 5 feet on center. If precluded by rock conditions, such landscaping shall be planted in surface containers. The site plan shall contain a note reflecting this condition.

11. **Lighting.** Applicant did not propose any additional lighting for the site. Applicant shall provide a lighting plan, including a showing that existing site lighting is in compliance with Section 30-10.2(c) and (e). Site lighting shall be times to shut down at midnight. The lighting plan shall be reviewed and approved by the Board's consulting engineer. The lighting shall not

be glaring so as to cause illumination of adjoining properties, as determined by the Board's consulting engineer. The site plan shall contain a note reflecting these conditions.

12. **Stormwater management.** Applicant shall provide or be required to do the following: (i) a stormwater management (retention/detention) for the site in compliance with Section 30-7.14 which has a zero runoff requirement for proposed commercial and subdivision applications. The Board's consulting engineer shall approve same; (ii) clean the existing stormwater management system and verify it is functioning properly; and (iii) provide a video inspection of the existing onsite stormwater management system to the Borough Engineer for review.

13. **Kitchen exhaust vents.** The kitchen's exhaust shall be redesigned to vent to the front of the building (easterly direction toward Sylvan Avenue). The site plan/architecturals shall be revised to reflect this modification.

14. **Signage.** Applicant seeks to use the existing sign and backlight a new face. The Board prevailed upon applicant to illuminate lettering only. The lighting shall not be glaring so as to cause illumination of adjoining properties, as determined by the Board's consulting engineer.

15. **Fencing and Retaining Wall.** The 4-foot fence on the south side of the property is to be eliminated and replaced with landscaping. Applicant is proposing a six (6) foot high fence on top of an existing concrete retaining wall. The retaining wall shall be examined and certified by a structural engineer to be able to bear the weight of the proposed fence. The rear boundary fence shall be a wood stockade, with the finished exposure facing the residential lots to the west.

16. **Dumpster and Solid Waste Haulage.** The dumpster and its pad shall be relocated to the front of the lot in proximity to Sylvan Avenue and not in proximity to residential uses. It shall have a cover and be serviced no less than twice per week, no earlier than 9:30 am.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Englewood Cliffs that the development application be approved, subject to the following conditions:

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CONDITIONS SPECIFIC TO THE APPLICATION

A. Applicant shall comply with the review letters of the Board's consulting engineer dated May 12, 2016 and May 16, 2016, and shall comply with his requirements during the construction phase, as site conditions may warrant.

B. Applicant shall mill and repave, not patch, the parking areas in order to restore them to their original condition. In addition, to the extent they exist, applicant shall replace any damaged curbs and sidewalks in accordance with Borough specifications. Applicant shall provide top and bottom elevations of curbing. With respect to parking spaces 16 and 19, they shall be moved to avoid being less than one (1) foot away from the structure, and bollards shall be installed to prevent vehicular traffic from hitting the structure or the proposed fire escape steps. The site plan/architecturals shall be revised to reflect these conditions and modifications.

C. Subject to testing the depth of rock, applicant will plant Leland cypress trees or their equivalent, 7 to 8 feet on planting, 5 feet on center. If precluded by rock conditions, such landscaping shall be planted in surface containers. The site plan shall contain a note reflecting this condition.

D. As to landscaping generally, applicant shall submit a landscape plan for the review of landscaping consultants at Maser Consulting, P.A. Plantings shall be maintained in perpetuity and replaced if damaged or destroyed.

E. Applicant shall provide or be required to do the following: (i) Prepare and file a stormwater management plan for the site in compliance with Section 30-7.14 which has a zero runoff requirement for proposed commercial and subdivision applications. The Board's consulting engineer shall approve same; (ii) clean the existing stormwater management system

and verify it is functioning properly; and (iii) provide a video inspection of the existing onsite stormwater management system to the Borough Engineer for review.

F. Applicant shall provide a lighting plan, including a showing that existing site lighting is in compliance with Section 30-10.2(c) and (e). Site lighting shall be timed to shut down at midnight. The lighting plan shall be reviewed and approved by the Board's consulting engineer. The lighting shall not be glaring so as to cause illumination of adjoining properties, as determined by the Board's consulting engineer. The site plan shall contain a note reflecting these conditions.

G. Applicant shall provide valet parking during peak dinner hours and as otherwise may be required to prevent patron parking on adjoining residential streets; and shall monitor and prevent the parking of patron vehicles on adjoining residential streets.

H. The restaurant's operations shall end, and the doors will be locked, no later than 11:30 pm. Further, outdoor table service and seating is prohibited on the roof-decks. Further, there will be no smoking or music on the decks, and deck access will be closed to patrons after 8:30 pm.

I. Miscellaneous:

- The kitchen's exhaust shall be redesigned to vent to the front of the building (easterly direction toward Sylvan Avenue). The site plan/architecturals shall be revised to reflect this modification.
- The existing sign frame may be used but only lettering will be illuminated. Further, the lighting shall not be glaring so as to cause illumination of adjoining properties, as determined by the Board's consulting engineer.
- The 4-foot fence on the south side of the property is to be eliminated and replaced with landscaping. Applicant is proposing a six (6) foot high fence on top of an existing concrete retaining wall. The retaining wall shall be examined and certified by a structural engineer as being able to bear the weight of the proposed

fence. The rear boundary fence shall be a wood stockade, with the finished exposure facing the residential lots to the west.

- The dumpster and its pad shall be relocated to the front of the lot in proximity to Sylvan Avenue and not in proximity to residential uses. It shall have a cover and be serviced no less than twice per week between no earlier than 9:30 am. It shall be washed out periodically to minimize odors and control vermin.

GENERAL CONDITIONS

J. All representations made by applicant and its representatives shall be deemed conditions of this approval and any misrepresentations by applicant or its representatives contrary to the representations made before the Board shall be deemed a violation of this approval.

K. The action of the Planning Board in approving this application shall not relieve the applicant of responsibility for any damages caused by this project, nor does the Planning Board of the Borough of Englewood Cliffs, or its reviewing professionals and agencies, accept any responsibility for design of the proposed improvement or for any damages that may be caused by this development.

L. Applicant shall comply with all applicable federal, state, regional, county and local rules, regulations and requirements. In the event compliance with the requirements of any such governmental entity necessitates modifications to the application, applicants shall submit revised plans to the Zoning Officer and Construction Official for their review and approval. If deemed by him to be so substantial or different as to warrant further review by the Planning Board, such modification(s) shall be referred to the Planning Board for its formal review, and applicant shall be required to present same in compliance with the notice provisions of the Municipal Land Use Law.

M. This approval is subject to applicant obtaining a building permit and any other State, County or Borough approvals (including Borough Board of Health), if required.

N. All fees, costs, bonds and escrows shall be paid when due or becoming due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.

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MOTION BY: MS. ROSENBERG

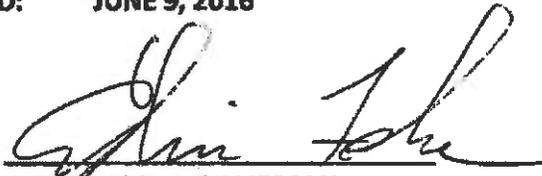
SECONDED BY: MR. KIM

IN FAVOR: MS. ROSENBERG, MR. KIM, MR. VILLARI, MR. TROVATO, MR. CHINMAN, MR. PORRINO, MR. LEE and MR. FEHRE

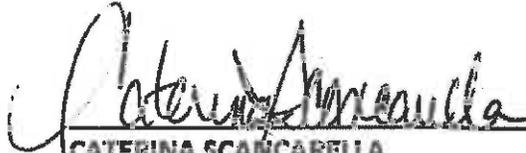
OPPOSED: NONE

DATE APPLICATION APPROVED: MAY 24, 2016

DATE RESOLUTION APPROVED: JUNE 9, 2016



**EDWIN FEHRE, CHAIRMAN
PLANNING BOARD**



**CATERINA SCANCARELLA
PLANNING BOARD SECRETARY**

Attest:

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