

Regular Public Meeting of the Englewood Cliffs  
Planning Board Minutes  
November 13, 2025

The Regular Meeting of the Englewood Cliffs Planning Board was called to order by Chairman Porrino at 7:37 pm.

Roll Call:

Present:

Chairman Porrino  
Vice Chairwoman Mrs. O'Shea  
Mr. Kim  
Ms. Correa  
Mr. O'Shea  
Mrs. Villari  
Mr. Lee – Borough Representative  
Mr. You – Mayor Designee  
Councilwoman Biegacz

Absent:

Ms. Rizvi – 1<sup>st</sup> Alternate  
Ms. Zamecki – 2<sup>nd</sup> Alternate  
Mayor Park

Present:

Thomas Randall Esq., of Randall & Randall, LLP, the planning board's attorney.  
Mr. Craig Zimmerman, of Colliers Engineering, the planning board's engineer.  
Mr. Austin Bejin, of Colliers engineering, the planning board's planner.

Flag Salute

Public notice of this regular virtual meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, notification to The Press Journal, and posting of notice on the municipal website at [www.EnglewoodCliffsNJ.org](http://www.EnglewoodCliffsNJ.org) and posting on the entrance of the borough hall building at 482 Hudson Terrace, Englewood Cliffs, NJ.

Chairman Porrino requested a motion to approve the minutes of October 9, 2025. A motion was made by Mrs. O'Shea and seconded by Mr. Lee and roll call vote. 5 Ayes (Mrs. O'Shea, Mr. Kim, Mr. Lee, Councilwoman Biegacz and Chairman Porrino), No Nays, 3 Abstentions (Ms. Correa, Mr. O'Shea, Mrs. Villari and Mr. You)

Old Business:

Application #345K - Commercial Site Plan Approval  
Englewood Hospitality, LLC – 495 Sylvan – Block 512 Lot 3

Mr. Pastor attorney for applicant gave a summary about the application and what was discussed at the previous meeting.

Chairman Porrino stated that there was discussion at the last meeting that there is a "D3" variance for this application and that you conquered so we should reconstitute as a zoning board. Councilwoman Biegacz and Mr. You recused and left the meeting at this time.

Ms. Justine Fox of Stonefield Traffic at 93 Park Ave., Rutherford, NJ was the professional for the applicant as a traffic expert. Ms. Fox gave an overview of the application in regard to the

outdoor seating area that they want to enclose. There are 56 seats that are being utilized already today so for our traffic report this is no significant change to the operation that is currently there today. On the site there are two driveways on Palisade Avenue. We do not anticipate any significant change into and out of the driveways due to this application. The driveways are in the jurisdiction of Bergen County since they are on Palisade Avenue. The front of the property is under the NJDOT and across from the two driveways on Palisade Interstate Parkway which falls under the PIP jurisdiction. Any changes to the driveways would require notification and approval from each of those jurisdictions the county really has the final say due to the driveways are on a county road and most likely would not approve any change to the site. Ms. Fox stated on site there are 55 parking spaces and during the peak hours valet parking provided they can get approx. 10-15% more spaces which can get up to approx. 75 spaces. On the adjacent lot (Connect One Bank) the applicant has an agreement for additional use of their spaces where there are approx. 61 spaces on the site. So, on total there is approx. 125 spaces marked and additional spaces when valet is being offered. Ms. Fox stated based on the number of seats in the restaurant which is not changing the estimated parking spaces is 121 spaces which also includes employee spaces and we have 125 spaces. Ms. Fox gave an overview of her exhibit marked in as "A2" dated September 11, 2025, Parking Management Plan. This showed the applicants property and Connect One Bank parking lay out and ingress and egress. She explained how the vehicles go in and out and stated that maybe at peak time they just go right and right to go around to keep traffic flowing. Ms. Fox stated that peak time as per NJDOT was approx. 4-6 pm. She went over Collier's letter and gave information about the location of where the valet station is and that there is approx. 6-7 car lengths of space for stacking on site before any vehicles will be able to be moved in plenty of time. Ms. Fox agreed that there is 215 seats and 17 bar seats totaling 232 seats inside and 56 seats in the area where the application is being made and 44 seats in the outdoor tent area and that they can accommodate the parking for this amount as per her report.

Chairman Porrino asked Ms. Fox to repeat the two driveways description on the property the exit driveway is blocked when valet is in use. Ms. Fox stated they are 24' wide drive aisles and the access driveways as well when they enter it splits off to two different lanes if needed. There was discussion on how the cars ingress and egress without having the second egress due to valet on site. Ms. Fox stated that there are signs on site directing all vehicles on site.

Mr. Lee questioned what is the peak hours for the restaurant? Mr. Pastor stated 9 pm – 11 pm. Mr. Lee questioned was the study for these hours? Ms. Fox stated that the peak hours were determined by the IPE Trip Manual that they come up with. There is a general estimated time from for a typical restaurant. This restaurant peaks a little later when the roadways have less traffic per the study.

Chairman Porrino questioned Ms. Fox if she did any on site studies of the parking at various times of the day. Ms. Fox stated she did visit the site several times.

Chairman Porrino questioned that he thought that there was to be an onsite investigation for the site parking on how it is being used at various times. Were you able to do any actual counts at various times of the day. Ms. Fox stated that she did speak with the applicant and was informed that there was no issue with parking, so we did not do it.

Mr. Zimmerman of Colliers Engineering as the board engineer stated we asked that the 56 seats trigger a "D" variance. It is more of a concern regarding the traffic condition as I observed when I was out there and other people in the town have observed especially during the peak

hours, which I am saying is likely like Saturday around 9pm – 1 am where people are trying to get into the actual site with the valet circulation that you are presenting. I would counter due to my observation granted I was there on a Friday evening in the peak hours. One thing I do like which was stated is that traffic conditions would generally improve if you had a clockwise pattern go through the entire operation as cars come out of the read area everything would have to push to the right as to not go to the left. This may ease circulation as you come around not only to the yellow area where cars are being coming but even coming out of the valet, they would have to go around the block and back in. On Friday night I was there it was rather quiet, but I was still seeing a concern that when cars go into the site they are being stopped and stacking immediately as they are trying to get into the ingress and egress as cars are coming out of the same location. I think there should be some type of improvement to the valet services. There was discussion on the egress and ingress of the property at all times even when valet is being performed. Also, that there is a lot going on at that corner from all sides. I noticed ubers are waiting on the street for pickups or drop offs which is hazardous and feel it should be investigated to not allow. Mr. Zimmerman feels that there should be a ingress on one driveway and egress out of the other only to help with the flow of traffic. I was out there on Friday, August 23<sup>rd</sup>. Mr. Zimmerman requested that if the application is to be approved, he feels a true traffic study should be completed to make sure it is safe and a solution for the town. Possibly some signage also on Palisade Ave. but will require approval from the county as well.

Mr. Pastor stated these are the current condition and if the application is approved there really will not have any change. We are willing to work together to maybe help the flow a bit.

Chairman Porrino stated that we as a board like to work with the applicant and the best for h borough. We want to make sure this property works the best ability for the applicant and town.

There was discussion about parking, ingress and egress for the property between the board, applicant's attorney and the board engineer.

Ms. Fox stated that as per the county etc. this property meets all the standards. Maybe we can put in a stop bar with two yellow lanes on the existing driveways. There is the length to do this. Mr. Zimmerman stated he wanted the record to show his recommendation of an egress in and egress out on the property.

Chairman Porrino questioned signage and if the applicant was to make the driveway to the east a egress only with appropriate signage stating "Exit Only – Do Not Enter" takes care of the attendants from parking a car there to not allow people to enter that should hopefully make that problem go away. Mr. Pastor stated it is an egress only now with an arrow. Chairman Porrino stated maybe two signs will help that even more. Mr. Pastor stated there is an arrow on grade. Chairman Porrino stated it is very faded. Mr. Pastor stated if the application is approved, they are planning to upgrade that as well. Chairman Porrino also stated maybe no stopping or standing sign near the building at the entrance, so no one parks there since I saw cars parked along there as to not congest the area for cars coming in. You can then maybe stack two cars in the entrance waiting for valet.

Mr. Zimmerman questioned the parking in the red. Ms. Fox stated 65 spaced on site. Mr. Zimmerman questioned the 2 or 3 the last time we met stated that they are used for something dumpster etc. Mr. Pastor stated that is removed they are parking spaces. Mr. Zimmerman questioned the valet shed is that taking a spot. Mr. Fox stated n it is in the drive aisle. Mr. Pastor stated that there are 65 clear parking spots on site now. Mr. Zimmerman questioned the

parking in the yellow area is that a lease agreement. Mr. Pastor stated yes that is an ongoing agreement for about 4 years. There is no specific number of spaces it is just for the entire parking lot which has 61 spaces.

Mr. O'Shea questioned the parking agreement with Connect One is a revocable agreement so it can be cancelled anytime. Mr. Pastor stated yes and it has no end date. Mrs. O'Shea questioned the hour of the parking on that lot is it from 7 pm – 12 pm and apparently you go over that 12 pm time. Mr. Pastor stated in 4 ½ years there has never been a question or problem. Mrs. O'Shea stated that it also states only the valet can go on that lot not customers do you have any situation of a customer to park there. Mr. Pastor stated it does not happen. Mrs. O'Shea stated that Sylvan Ave. & Palisades Ave. is a major intersection in Englewood Cliffs, this is the biggest and most traffic area at all times.

Mr. Zimmerman questioned the ADA parking and if you have 126 spaces you will need 6 spaces. Ms. Fox stated that one is van accessible and if not we will comply. Mr. Pastor stated he feel they are ADA complaint. Mr. Zimmerman questioned the exact seating to make sure parking is correct. Ms. Fox stated they included the 17 seats at the bar with the 315 for the restaurant so 332 is the correct number that was used to calculate parking.

Mrs. Villari questioned the seating has been there since COVID and all they are trying to do is cover the area outside. I am not understanding what the problem is. Have we had any issues in the area. Why is a roof going to change the parking? Mr. Pastor stated that is what we have been saying.

Mr. Zimmerman stated that there are potentially three "D" variances for just this simple roof to be installed which is based on the location of the closure as it plugs into ordinances established in this town as stipulated by the MLUL. So, this requires these variances and that is why we are here.

Mr. Ayberk Tabakci from the company that manufactures the enclosure gave an overview of the structure and where it will be located. Mr. Tabakci described the materials and how the structure is assembled and how it worked regarding opening and closing of the roof and windows. The glass is soundproof and insulated for sound to be kept in. There will be heat and curtains. There is a way to install an auto closing of windows/roof if the sound gets too loud it is already there for wind control.

There was discussion between Mr. Zimmerman and Mr. Tabakci about the structure, size, material and how it will be installed.

Board members and Mr. Tabakci discussed the assembly and how the structure will be on the site.

Mrs. O'Shea questioned if there would be music inside this enclosure. Mr. Pastor stated yes, that is one reason why they want to put the structure up so that private parties can be held in there and will keep the sound enclosed.

Mrs. O'Shea questioned if the tented area will be removed when and if this is installed. Mr. Pastor stated no. The tent was approved and with COVID and stated rules it will not be removed. Mrs. O'Shea stated that the usage is more intense now with the two outside places.

Ms. Lyndsay Knight from Neglia Group in Lyndhurst, NJ gave an overview of the application as per her attached planner report which she read into the record. Ms. Knight stated that in her report she had 215 seats because she did not include the 17 bar seats that were included in the traffic report so with those seats it will be 232 seats in total and is consistent with Ms. Fox's report and does not change anything I have stated.

Chairman questioned Ms. Knight that if a month from now Connect One is acquired by another bank etc. and they don't want the parking there what happens then since it is half the parking for this use? Mr. Pastor stated we would be back to what we originally were approved for to have and we know that is a risk we have as a business. We would have to find another option to correct it.

Mr. Austin Benjin from Collier's as the board planner covering for Mr. Dickerson who prepared the report stated there is one item that goes along with the off-site parking. There is an allowance for off-site parking if approved by the board which would mean it has to guarantee that it continues if not it goes back to the previous approved parking that was submitted which is 215 seats in 2003. That approval was for 215 seats inside and 56 seats outside and 10 employees. Since then, with the structure built during COVID and the covered seating I don't know what the current seating is to that. It seems it is the 332 seats I am not sure if there was any prior board approval for increasing the seats and increasing the parking requirements. It seems to be retroactive since things have changed and parking requirements changed without approval that I am aware of. If there was a variance for the structure from COVID has a variance and the cover parch had a variance. Mr. Pastor informed him that the structure was during COVID and as per the state requirements that have been permitted without variance requirements.

Mr. Lee questioned the operation hours for this location. Mr. Pastor stated lunch starts at 11 am and the latest it is open till 2 am. The bar on the weekend closes at 2 am, but during the week it usually is 11 pm last call is 1:45 am and everyone leaves at 2 am. Nothing will change in operation. Mr. Pastor stated the kitchen stops serving at about 10 pm. The outdoor area will most likely have music off by midnight unless a private party that may go a little later.

Chairman Porrino questioned the sound issue and how to control the sound levels so that the town doesn't get complaints about it.

Mr. Zimmerman stated that he was aware of the music that comes off the property not the noise from over the river. There are still ordinances that after 10 pm you can not have noise over 50 decibels near a residential site so how do we monitor this. When I was out there, I did hear the thumping of the music from the site I feel that there should have to be some type of monitoring on the applicant's responsibility.

Mr. Pastor we will have the sound trigger relay to close on the structure, and it will be soundproof. We have been very diligent to keep the sound onto their property. The applicant drives around to make sure. We have taken a lot of undo blame for sound, and we have tried to watch it and that is why we are here with this application. We are not averse to having an expert come onto our site to help with this issue.

There was discussion between board members, planning board engineer and applicant's attorney about the sound issue.

Chairman Porrino requested a motion to open to the public for this matter. A motion was made by Ms. Correa seconded by Mrs. O'Shea and carried unanimously by voice vote.

Mr. Moufesis 26 John St., stated that four weeks ago I called the police dept., and they stated we can't do anything about the noise it is coming from NYC. I didn't hear anything from Lefkes, Bicycle Club etc. As far as traffic the county is not going to give you any signs. I have been trying to get a sign at the corner of my street. They should put an egress and ingress sign on their lot. I have been there many times and have had no issue with trying to get into the lot. You can blame the people they are all trying to make a living. I have no issue with what they are asking for.

Mr. Curko, 549 Summit St stated that he is good friends with the owner, and we are all just trying to have a business and hope you approve the variance.

Gino Tessaro Construction Official for the borough stated he heard a lot of talk about traffic and parking but our concern is the noise issue so I would appreciate it if this gets approved that will work with me as well and we can come up with some solution.

Patron of Lefkes who lives in Fort Lee, NJ. I am out and about this area all the time and don't hear any noise. I am a good friend of the owner who has created a healthy business in Englewood Cliffs. I hope you will pass the variance.

Chairman Porrino requested a motion to close the public. A motion was made by Mrs. Villari seconded by Ms. Correa and carried unanimously by voice vote.

Mr. Pastor gave a quick overview and closing remarks to grant this approval.

Mary O'Shea questioned if we were to approve to put a stipulation to not have any music in the enclosure and the tent enclosure after 10 pm. Mr. Pastor stated that we are asking for approval to have private parties outside with music since we re soundproofing the enclosure. I think this is further than what we are asking.

Chairman Porrino stated I feel finding these sound levels that are allowed and if it is above that and is noted that will work. I think limiting the time for music is harder. Let's leave it to the sound engineers to come up with a way to monitor the sound.

Mr. Lee stated that maybe we can have a six-month look back like we have done in the past with other applications. Chairman Porrino agrees with this idea.

Chairman Porrino requested a motion to approve the application with the following conditions:

1. One-way circulation in subject lot
2. Right hand turns only
3. Signs on the two driveways stipulating one way for each one
4. Stripping along the front of the building and there is no parking in that area
5. Stop bar & yellow lines at the ingress and egress driveway
6. One parking space must be shown to be ADA van accessible compliant.
7. Work with board professionals that noise decibels comply with borough ordinances
8. There will be a six month look back regarding sound/noise

9. Work to control the standing of vehicles on Palisade Ave. staging area for Ubers etc. drivers to avoid standing vehicles on Palisade Ave.
10. Storage containers in parking are to be removed if not already done
11. No eating or drinking outside the proposed and existing structures
12. No amplifiers or speakers to be located outside of the two structures
13. Shut down of facility and music at 2 am.
14. Analysis and meeting of professionals' sound expert of the board and applicant as to the appropriate method of measuring the sound level at the property line such that borough ordinances are being violated.
15. A system of monitoring that the borough would have the ability to verify that the decibels levels are not being exceeded by the applicant.
16. Revised plans should be submitted prior to the approval of the resolution indicating the changes to the traffic flow on the property so that it is clear for the building dept. and where signage will be added.
17. Sound issue taken care of before approval of the resolution.
18. Parking plan to be updated on the plan with number of seats etc.

Motion was made by Mrs. Villari seconded by Ms. Correa with a roll call vote. 6 Ayes (Ms. Correa, Mr. O'Shea, Mr. Kim, Mrs. Villari, Mr. Lee, and Chairman Porrino), 1 Nay (Mrs. O'Shea), No Abstentions

Chairman Porrino requested a motion to open to the public for this matter. A motion was made by Ms. Corra seconded by Mrs. Villari and carried unanimously by voice vote.

No Comments

Chairman Porrino requested a motion to close the public portion and adjourn the meeting at 10:23 pm. A motion was made by Ms. Correa seconded by Mrs. Villari and carried unanimously by voice vote.

Respectfully submitted.



Caterina Scancarella  
Planning Board Administrative Secretary

**ENGLEWOOD CLIFFS PLANNING BOARD**  
**REGULAR MEETING – November 13, 2025 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).

**FLAG SALUTE:**

**"OPEN PUBLIC MEETINGS ACT" STATEMENT**

This meeting which conforms with the Open Public Meetings law, Chapter 231, Public Laws of 1975, is a regularly scheduled Planning Board meeting by advertisement in The Record, notification to the Northern Valley Press Journal, the Suburbanite, posting of notice on the municipal website at [www.EnglewoodCliffsNJ.org](http://www.EnglewoodCliffsNJ.org), and at Borough Hall, 482 Hudson Terrace, Englewood Cliffs, NJ.

**ROLL CALL**

**APPROVAL OF MINUTES:**            October 9, 2025 – Regular Meeting

**OLD BUSINESS:**

Application #345K - Commercial Site Plan Approval  
Englewood Hospitality, LLC – 495 Sylvan Ave. – Block 512 – Lot 3

**NEW BUSINESS:**

**COMMUNICATIONS:**

**EXECUTIVE SESSION:**

**COMMITTEE REPORTS:**

**PUBLIC COMMENTS OTHER THAN HEARING ON THIS AGENDA**

**ADJOURNMENT**

September 11, 2025

Cathy Scancarella, Administrative Secretary  
Borough of Englewood Cliffs  
482 Hudson Terrace  
Englewood Cliffs, NJ 07627

Engineering Review #2  
Englewood Hospitality, LLC (Applicant)  
Address (Block 512, Lot 3)  
Application #345K: Preliminary and Final Site Plan  
Colliers Engineering & Design Project No. ECP-0165

Dear Ms. Scancarella:

As requested, our office has reviewed application #345K submitted by Englewood Hospitality, LLC (Applicant), seeking Preliminary and Final Site Plan approval to enclose an existing outdoor patio area with a prefabricated structure.

The following documents, which were submitted in support of the initial Application, have been reviewed in advance to the Applicant's first hearing before the Board on July 10, 2025.

***During this first hearing the application was carried to a future agenda. Therefore, several engineering items pertaining to this engineering review are considered outstanding and addressable by the Applicant. Additional planning comments are also subject to planning testimony and we defer to the Board planner and the separate planning review letters on the matter.***

1. Cover letter, prepared March 20, 2025 by Gregg F. Paster.
2. Zoning Application with Exhibits, dated March 19, 2025
3. Property survey, prepared May 15, 2025 by William C. Buchok, PLS, of Lakeland Surveying, consisting of 1 sheet.
4. Plans entitled "Preliminary & Final Site Plan," prepared June 19, 2025 by Michael E. Dipple, PE of L2A Land Design, consisting of 3 sheets.
5. Prior Resolutions:
  - a. Application 190K, memorialized December 11, 2003
  - b. Application 186K, memorialized May 8, 2003
  - c. Application 168K, memorialized December 11, 1997
  - d. Application 168K, memorialized April 22, 1996
  - e. Application 168K (Amended), memorialized October 10, 1996
  - f. Application 1183, memorialized April 14, 1994
  - g. Application 152K, memorialized March 8, 1990 and October 10, 1991

***In September, additional documents have been submitted in advance to the Applicant's second hearing before the Board scheduled on September 11, 2025.***

6. ***Planning Review Letter, prepared on July 28, 2025 by Neglia Group, consisting of 7 sheets.***

**7. Traffic & Parking Assessment Report, prepared August 27, 2025 by Matthew J. Seckler of Stonefield Engineering and Design, Inc. consisting of 3 sheets.**

**A. Existing Conditions**

The property, known as 495 Sylvan Avenue, is located at Lot 3 of Block 512 in the Borough's B-4 Restricted Commercial Zoning District. The property contains an area of 35,501 square feet and is located at the southeast corner of Sylvan Avenue and Palisade Avenue. The property is currently developed with a 2-story masonry building, currently used as a restaurant, with a surface parking lot in the rear portion of the property. Attached, or otherwise connecting to the building is a covered patio, along with a paver patio. The property survey also shows an attendant's booth located in one of the on-street parking spaces, along with an "enclosed dining area." Surrounding uses include a bank to the east, and a restaurant to the south. West, opposite Sylvan Avenue is a gas station and a commercial office building. To the north, opposite Palisade Avenue, is generally wooded, and includes an on/off ramp to the Palisades Interstate Parkway.

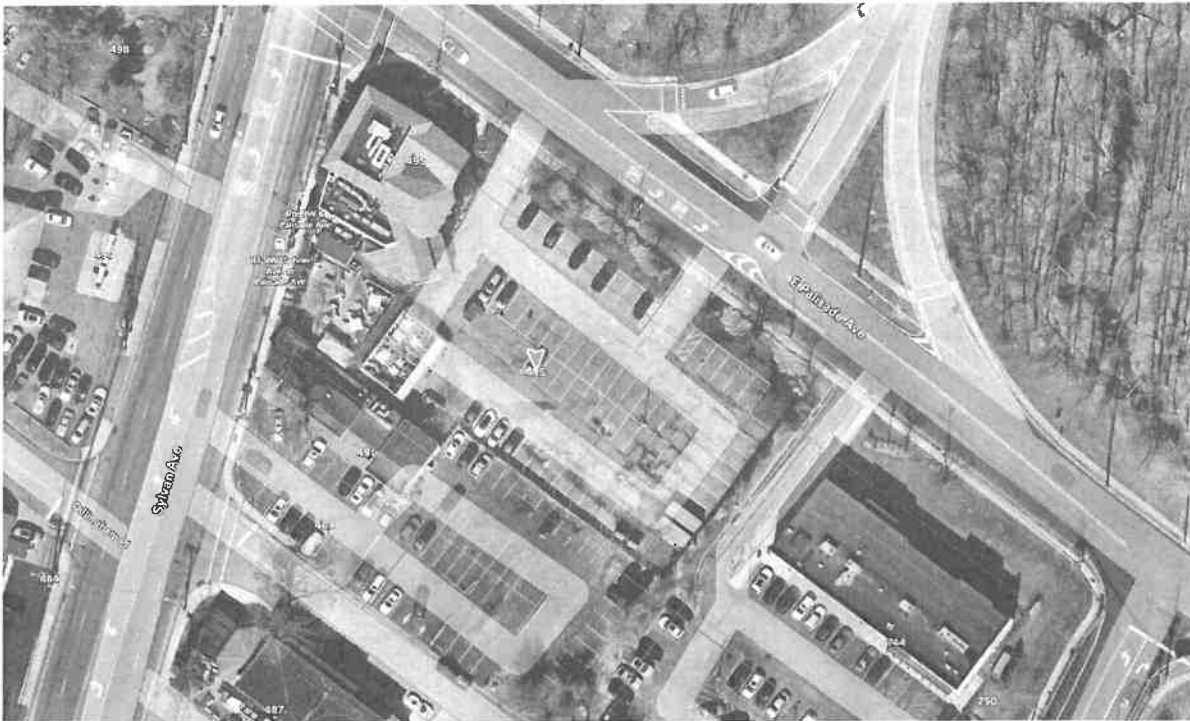


Figure 1: Nearmap imagery of the subject site (March 11, 2025)

## B. Proposed Conditions

The Applicant has provided very limited details on the proposed development, with no description provided in the Application forms. We can infer, from the site plan submitted, that the Applicant is seeking to replace the existing paver patio and wooden deck with a standalone prefabricated structure. It also appears the applicant proposes to leave the remainder of the site as it exists today leaving the structures that have been constructed, including the temporary structures, unchanged.

## C. Variances

We defer to both Planner review letters as prepared by Nicholas Dickerson of CED, **dated July 3, 2025 and September 9, 2025** respectfully, regarding the review of all planning and variance matters related to this application.

## D. Proposed Site Plan Conditions

The applicant shall be prepared to provide testimony regarding all the items below.

1. General Site Plan Comments:
  - a. The proposed demolition and construction plans are unclear. It is suggested the applicant provide a clear set of plans with separate sheets including, but not limited to existing approved conditions, temporary structures, off-site parking, on site parking, demolition and proposed construction. **Applicant submission #2 does not address this suggestion.**
2. Grading:
  - a. Based on our review of the application, it does not appear the applicant is proposing any grading changes to the site. **Ongoing observational statement.**
3. Traffic, Access and Parking:
  - a. Applicant should provide a traffic assessment letter, which should include a detailed trip generation comparison between the originally approved, interim (Covid), and proposed uses. **A Traffic Assessment and report has been provided with the second submission. See h. - n. below for review comments.**
  - b. Should the results of the aforementioned traffic assessment show an increase of 100 peak hour trips or greater, a capacity analysis will need to be provided for the intersection of Sylvan Avenue (Route 9W) with Palisade Avenue, as well as the site driveways. **The Traffic Assessment indicates a Saturday evening peak hour of 110 vehicles.**
  - c. The traffic assessment should also provide a narrative explaining the parking operations. For example, if valet parking and/or off-site parking facilities are utilized during peak hours, an **explanation and plan** should be provided. All off-site parking agreements should be submitted as part of the parking evaluation.
  - d. The valet parking plan should also include accommodation for sufficient emergency access.

- e. Should a review of the parking evaluation result in a deficit in the number of spaces and/or a variance, a parking accumulation study should be conducted for a minimum of four (4) hours on two (2) typical peak days and times.
- f. The applicant shall provide a clear plan on a site plan depicting where all the parking stalls related to this site plan by agreement are located and how they can be accessed. We defer to the planner's letter regarding the review of other parking review for this application.
- g. This application may be subject to County review (Palisades Avenue – County 505) and/or NJDOT review (Sylvan Avenue – State 9W).

***Upon review of the Applicant's second submission which includes a Traffic Assessment and Parking Report (Item #7, page 1), the following traffic related comments have been added to this review for the Applicant to address.***

- h. CED performed a visual traffic observation which was conducted on Friday August 22 during the hours of 11:45 pm to Saturday August 23 at 1:45 am.***
  - i. It was observed that vehicles generally are susceptible to immediate stacking on the easterly corridor of Palisades Avenue travelling east from the intersection of Sylvan Avenue to attempt access to the ingress/egress to on-site parking. Vehicles coming out from this egress appear to center block the lone ingress for vehicles.***
  - ii. It was observed that vehicles intermittently stop and idle along the southerly shoulder of the easterly corridor of Palisades Avenue along the frontage of the site, which appears to block/impede traffic flow.***
  - iii. It was observed that the second dedicated egress appears to have vehicles entering it as an ingress off of Palisades Avenue.***
  - iv. It was observed that vehicles and/or valet services to and from the site are susceptible to stacking on the westerly corridor of Palisades Avenue in attempt to access the lone ingress on-site.***
- i. The Applicant shall provide testimony confirming the usage of the off-lot parking at the bank, hours of operation per the usage agreement, and if there are any other known off-site properties or parking agreements in which parking is being utilized to offset the deficiency in on-site parking.***
- j. We note that there are different counts of indoor seating spaces between the Neglia planning letter (215 indoor, 315 total) and the Stonefield Traffic Assessment (232 indoor, 332 total). The Applicant should reconcile the values and provide an accurate seating chart for the record on total seating on the premises.***
- k. The Applicant should provide a detailed traffic management plan for peak hours of operation. Specifically, the valet operations in and out of the site driveways, specific rideshare drop off locations, and wayfinding signage.***
- l. The Applicant should discuss the valet traffic in and out of the site driveways and site generated traffic and the existing operational concerns along Palisade Avenue. Specifically, based on observations there is a concern with the conflict between site traffic and the on-ramp traffic for the Palisades Parkway.***

- m. A detailed map should be provided illustrating the off-site parking locations, as well as the parking agreements. Additionally, the map should show the route the valet would travel.***
- n. A valet parking plan for the site should be provided showing the stacking and number of spaces. The plan should demonstrate accommodation for sufficient emergency access.***

- 4. Sidewalks:
  - a. There are existing sidewalks along the entire frontage of this site. It appears that no modifications are proposed to the sidewalks. ***Ongoing observational statement***
- 5. Off-Tract Improvements:
  - a. There does not appear to be any proposed off-tract improvements related to this project. ***Ongoing observational statement***
- 6. Stormwater and Drainage:
  - a. The application appears to propose a net reduction of 1,869 SF of impervious cover, and therefore no additional stormwater treatment would be required. ***Ongoing observational statement***
  - b. It is unclear if the applicant is not counting the proposed impervious cover of the roof in the calculations.
  - c. It is unclear where the drainage from the proposed roof area and related impervious areas will be discharged.
  - d. Applicant shall provide additional information & testimony regarding these items ***(6b. and 6c. above)***
- 7. Utilities:
  - a. Utility connections for water, sewer, and gas are shown on the plans. No modifications to the utilities appear to be proposed.
  - b. The applicant shall be prepared to provide testimony regarding this item. ***(7a. above)***
- 8. Landscaping:
  - a. It appears the applicant is not proposing any changes to landscaping. ***Ongoing observational statement***
  - b. The Applicant shall provide testimony in writing regarding any trees, shrubs, or vegetation to be removed, altered, and/or planted.
- 9. Signs:
  - a. The Applicant does not appear to propose any signs for this project. ***Ongoing observational statement***
- 10. Lighting:
  - a. The Applicant does not appear to propose any lighting for this project. ***Ongoing observational statement***
  - b. The Applicant shall provide testimony regarding the need or lack thereof of site lighting and how the proposed structures will impact the lighting of the exterior pedestrian and parking areas.
- 11. Soil Erosion and Sediment Control:
  - a. It does not appear the application requires a Soil Erosion and Sediment Control plan. ***Ongoing observational statement***

- b. The applicant shall be prepared to provide testimony regarding this item.
12. Environmental Constraints:
- a. The Applicant does not appear to propose any changes affecting environmental constraints. **Ongoing observational statement**

## E. Miscellaneous Comments

1. The Applicant is hereby advised that if stormwater runoff drainage problems occur as a result of the site improvements that are detrimental to the property and/or neighboring properties as a result of this construction, it shall be the responsibility of the owner of the property to remedy that drainage issue to the satisfaction of the Building Department and/or Borough Engineer.
2. The Applicant shall be aware of their responsibility to repair any damage to improvements within the Borough Right-of-Way including, but not limited to, sidewalk, curb, and asphalt, caused by construction activities associated with the installation of the improvements on the subject lot. We defer to the Borough's Department of Public Works in regard to this item.
3. The Applicant shall determine the limits of disturbance and install appropriate soil erosion preventative measures as necessary prior to constructing the proposed scope in association with this application and as shown on the plans.
4. The Applicant shall obtain any and all applicable approvals required by the Borough Building Department as well as outside agencies, including, but not limited to, the NJDOT, NJDEP, BCUA, and Bergen County. If applicable, proof of Bergen County Soil Conservation District shall be provided. It is the Applicant's responsibility to determine what outside agency permits are required. Copies of said approvals shall be provided upon receipt.
5. All excavated material shall be removed from the site unless approved for backfill by the Borough. Any soil disturbance shall be done as set forth by Borough Ordinance.
6. The Applicant shall be aware that posting of engineering escrow for construction administration oversight, plan review, and project closeout will be required at the time building permits are issued. Please be aware that unused escrow money will be returned to the property owner upon the issuance of a Certificate of Occupancy (C.O.).
7. The Applicant shall adhere to the building department's approved design plan. Any alterations and/or changes to the approved design plan(s) and contractor questions shall be brought to the attention of the Building Department for review prior to construction or installation on-site.
8. A signed and sealed "As-Built" site plan should be submitted as a requirement for this office to "sign off" on the issuance of the Certificate of Occupancy (C.O.). The provided "As-Built" should accurately show all installed site features including grading, spot elevations, structures, etc., and will be compared to the approved design plan in association with the application. The Applicant is hereby advised that deviations from the approved design plan without prior consent or approval

by the building department are not acceptable. If in the event the As-Built deviates significantly from the approved design plan, the Building Department may not sign off on a C.O, especially if said deviation triggers or requires a zoning variance.

Should you have any questions concerning the above comments, please do not hesitate to contact my office.

Sincerely,

Colliers Engineering & Design, Inc.  
(DBA Maser Consulting)



Craig Zimmermann, PE, CME  
Senior Project Manager/Board Engineer

cc: Thomas Randall, Esq. Board Attorney (via email)  
Gregg F. Paster, Esq. Applicant's Attorney (Via email [gpaster@pasteresq.com](mailto:gpaster@pasteresq.com))

101 Crawford's Corner Road Suite 3400  
Holmdel, New Jersey 07733  
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Colliers

Engineering  
& Design

Via email  
September 9, 2025

Cathy Scancarella, Administrative Secretary  
Borough of Englewood Cliffs  
482 Hudson Terrace  
Englewood Cliffs, NJ 07627

**Planning Review #2**

Englewood Hospitality, LLC (Applicant)  
Address (Block 512, Lot 3)  
Application #345K: Preliminary and Final Site Plan  
Project No. ECP-0165

Dear Ms. Scancarella,

As requested, our office has reviewed application #345K submitted by Englewood Hospitality, LLC (Applicant), seeking Preliminary and Final Site Plan approval to enclose an existing outdoor patio area with a pre-fabricated structure.

Our office has reviewed the following documents, which were submitted in support of the Application by the Applicant. Our letter has been revised following the receipt of updated materials to our office on Wednesday, September 3, 2025, along with testimony provided by the Applicant at the July 10, 2025 Land Use Board hearing.

1. Cover letter, prepared March 20, 2025 by Gregg F. Paster.
2. Zoning Application with Exhibits, dated March 19, 2025
3. Property survey, prepared May 15, 2025 by William C. Buchok, PLS, of Lakeland Surveying, consisting of 1 sheet.
4. Plans entitled "Preliminary & Final Site Plan," prepared June 19, 2025 by Michael E. Dipple, PE of L2A Land Design, consisting of 3 sheets.
5. Prior Resolutions:
  - a. Application 190K, memorialized December 11, 2003
  - b. Application 186K, memorialized May 8, 2003
  - c. Application 168K, memorialized December 11, 1997
  - d. Application 168K, memorialized April 22, 1996
  - e. Application 168K (Amended), memorialized October 10, 1996
  - f. Application 1183, memorialized April 14, 1994
  - g. Application 152K, memorialized March 8, 1990 and October 10, 1991
6. **Planning Review Letter, prepared on July 28, 2025 by Neglia Group, consisting of 7 sheets.**
7. **Traffic & Parking Assessment Report, prepared August 27, 2025 by Matthew J. Seckler of Stonefield Engineering and Design, Inc. consisting of 3 sheets.**

## A. Existing Conditions

The property, known as 495 Sylvan Avenue, is located at Lot 3 of Block 512 in the Borough's B-4 Restricted Commercial Zoning District. The property contains an area of 35,501 square feet and is located at the southeast corner of Sylvan Avenue and Palisade Avenue. The property is currently developed with a 2-story masonry building, currently used as a restaurant, with a surface parking lot in the rear portion of the property. Attached, or otherwise connecting to the building is a covered patio, along with a paver patio. The property survey also shows an attendant's booth located in one of the on-street parking spaces, along with an "enclosed dining area." Surrounding uses include a bank to the east, and a restaurant to the south. West, opposite Sylvan Avenue is a gas station and a commercial office building. To the north, opposite Palisade Avenue, is generally wooded, and includes an on/off ramp to the Palisades Interstate Parkway.

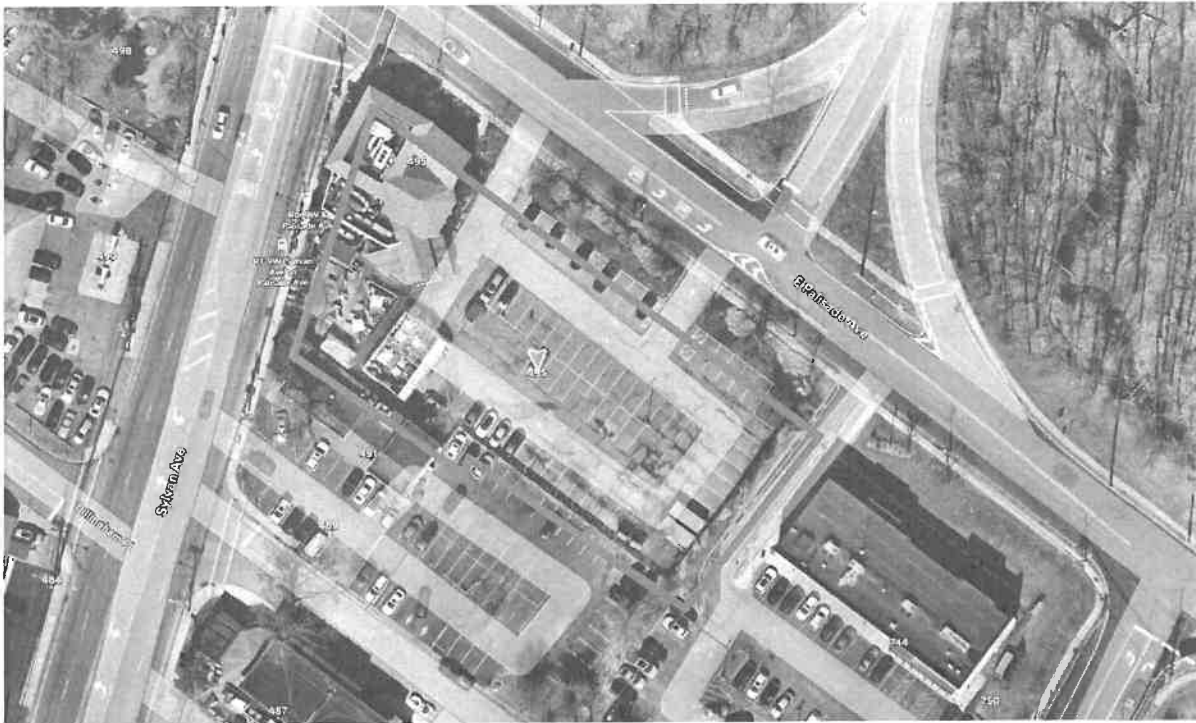


Figure 1: Nearmap imagery of the subject site (March 11, 2025)

## B. Applicable Land Use Controls

As mentioned above, the property is zoned B-4 (Limited Commercial), which conditionally permits restaurants according to specific bulk requirements, which are provided in the following section.

## Prior Approvals

The property has been the subject of numerous development proposals over the years, including the following:

### **Application 190K, memorialized December 11, 2003 (Planning Board)**

The Applicant, 11K Restaurant Corp (dba The Assembly Restaurant) received site plan approval with variance relief. This included the installation of a storage shed on the southwest corner of the building, which required a variance for accessory structures in the front yard. The Board approved this application, subject to certain conditions, which included a maximum height of 14 feet, the color had to match the building exterior, and that the Applicant comply with the requirements of the Borough Engineer regarding the size, location, height, material and all other characteristics of the storage shed to be placed at the southwest corner of the property.

### **Application 186K, memorialized May 8, 2003 (Planning Board)**

The Applicant, 11K Restaurant Corp (dba The Assembly Restaurant) received site plan approval with variance relief to construct an outdoor dining area with 80 seats on the south side of the existing restaurant, along with an outdoor parking area containing 57 parking spaces, which required variance relief, **as 101 spaces were required.**<sup>1</sup> The Board approved this application, subject to conditions that included complying with the review letter of the Board Engineer, the construction of a wall between the outdoor parking area and Sylvan Avenue, and to “dress down that number of tables on the inside of the restaurant at the subject property as are occupied on the outside of the premises so as to prevent any impairment of the intent and purpose of the zone plan and the zoning ordinance.” The Applicant would be required to continue to use valet parking. **The Board Engineer’s May 7, 2003 review letter, which was attached to this resolution, indicates that the indoor portion of the restaurant contained 215 seats.**

### **Application 168K, memorialized December 11, 1997 (Planning Board)**

The Applicant, Eleven K Restaurant Corp returned to the Board for final “K” approval for the application, which the Board Approved.

### **Application 168K (Amended), memorialized October 10, 1996 (Planning Board)**

The Applicant, Eleven K Restaurant Corp returned to the Board for site plan approval for a restaurant in the B-4 zone district, requiring variances for minimum front yard, side yard, sign area, off-street parking, drive aisle width, parking space dimensions, parking in the front yard, maximum width of a driveway, and parking spaces within 10 feet of any lot line on corner lots. The application at the time sought to expand the existing restaurant along with other improvements to the parking area, signage, and utilities. At the time, it was noted that the expansion of the restaurant would not

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<sup>1</sup> There are some discrepancies in this resolution and attached review letter. The resolution notes that the Applicant was proposing an outdoor dining area with 56 seats. The 56 seats was then struck and replaced and initialed for 80 seats. The parking calculations for 101 seats in the engineer’s review letter was based on 56 outdoor seats.

add seating area, but rather for expanded kitchen, restroom, and storage facilities. The Board approved this application, subject to conditions from the Borough Engineer, the parking lot would be resurfaced, the two dropped curbs on Route 9W would be removed and replaced with full height curbing, and that the white pines on the site would be planted on the property would be maintained at no greater than 12 feet in height.

**Application 168K, memorialized April 22, 1996 (Planning Board)**

The Applicant, Eleven K Restaurant Corp came to the Board for site plan approval for a restaurant in the B-4 zone district, requiring variances for minimum front yard, side yard, sign area, off-street parking, drive aisle width, parking space dimensions, parking in the front yard, maximum width of a driveway, and parking spaces within 10 feet of any lot line on corner lots. It was noted at the time that the restaurant had seating for 126 on the first floor, and the second floor banquet room had seating for 89. The Board approved this application subject to the comments from the Borough Engineer.

**Application 1183, memorialized April 14, 1994 (Board of Adjustment)**

This Application applied to a portion of Lot 3, but also Lots 4, 5, and 6, for the Applicant, United Jersey Bank, located at 750 E. Palisade Avenue. The Applicant was seeking approval for the construction of 3 signs, which were approved by the Board.

**Application 152K, memorialized March 8, 1990 and October 10, 1991 (Planning Board)**

This Application also applied to the adjacent bank property, which included a small portion of Lot 3, where the applicant had sought to construct an addition to the property. At the time, there was concern about the fact that the Applicant was leasing several of the parcels in questions. Without plans, it is not possible for us to determine, but the Resolution suggests that some of the parking spaces at the neighboring restaurant, then known as Leos, would lose parking spaces as part of the proposed expansion and integration of the two sites. The Board approved this application, along with their subsequent appearance for final "K" approval.

**C. Proposed Development**

The Applicant has provided very limited details on the proposed development, with no description provided in the Application forms. We can infer, from the site plan submitted, that the Applicant is seeking to replace the existing paver patio and wooden deck with a standalone prefabricated structure.

In reviewing the prior resolutions governing the development of this site, it is not clear if/when the "enclosed dining area" was approved.

The Applicant has also submitted a parking agreement from ConnectOne Bank at 750 East Palisade Avenue to utilize the property to valet park vehicles on the site between the hours of 7:00 PM to 12:00 AM, Wednesday through Sunday.



Eating and drinking establishments are regulated as conditional uses in the B-4 zone, subject to the requirements listed in the table below. It is our opinion that these requirements apply to the eating and drinking establishment use, and not simply just the principal structure. As such, the proposed prefabricated structure, and the existing "enclosed dining area" would be subject to both the conditional use requirements, but also the accessory structure standards.

**Conditional Use: Eating and drinking establishments.**

	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
<b>Minimum lot size</b>	10,000 square feet	35,501 sq. ft.	35,501 sq. ft.
<b>Minimum lot width</b>	100 feet	(Note 1)	(Note 1)
<b>Minimum lot depth</b>	100 feet	(Note 2)	(Note 2)
<b>Front yard</b>	20 feet	0	0 (ENC)
<b>Rear yard</b>	20% of lot depth	(Note 3)	5.5 feet (new pre-fabricated enclosure)(V) (Note 3)
<b>Side yard</b>	15 feet (Note 4)	(Note 4)	(Note 4) 2 feet (new pre-fabricated enclosure) V 2.1 feet (enclosed dining area)
<b>Maximum coverage</b>	33 1/3% (Note 5)	18.46% (Note 5)	22.79% (Note 5)
<b>Building height</b>	2 stories, 30 feet (Note 6)	(Note 6)	(Note 6)
<b>Off-street parking</b>	1 space per 3 seats plus 1 space per each employee on the peak shift	(Note 7)	(Note 7)

*Notes*

(1) Applicant to clarify. The measurement provided 141.5 is the length of the Sylvan Avenue street frontage. The ordinance defines Lot Width as "the mean width of a lot measured at right angles to its mean depth."

(2) Applicant to provide. This calculation was not provided in the plans.

(3) Applicant to provide. The Applicant suggests that this is not applicable. In our opinion, the rear yard would be the one abutting adjacent Lot 4, as it is opposite the Sylvan Avenue front lot line.

(4) Incorrectly provided. The Site Plan suggests the requirement is 10 feet, however, 15 feet is required for eating and drinking establishments. The Applicant shall correct. Moreover, the Applicant suggests that a side yard is not applicable. In our opinion, the side yard is the one facing adjacent Lots 2 and 7. This shall be corrected, and plans updated accordingly.

(5) It is not clear if either the existing or proposed calculation includes the "Enclosed Dining Area." This shall be clarified.

(6) Incorrectly provided. The Site Plan suggests that the requirement is 35 feet/2 stories, whereas the conditional use requirement for eating and drinking establishments is 2 stories, 30 feet. This shall be corrected. Moreover, since the building height is listed as <35 feet, the Applicant shall clarify if the building exceeds the 30 foot requirement.

(7) The Applicant shall clarify. The Site Plans do not differentiate between what the existing parking requirement is, versus what is proposed, only suggesting that 65 spaces is an existing nonconforming condition. A seating chart for all on-site seating should be provided. Moreover, the existing "Enclosed Dining Area" appears to have been constructed over several parking spaces, however, evidence of the approval, and the loss of parking spaces, was not submitted with this application. As noted in the following section as well, the plans show several parking spaces occupied, or otherwise blocked by storage containers, approvals for which have not been provided.

The Applicant shall provide the information requested above to confirm if the proposed improvements comply with the conditional use requirements.

In addition to the above, the proposed standalone structure would be required to meet the accessory structure requirements for nonresidential uses, as described below.

#### Accessory Structure Requirements

- Front Yard: No accessory structures shall be permitted in the front yard. (Section 30-7.2 a. 4). The proposed development would include the construction of an accessory structure in the front yard, located 5.5 feet from the front property line.
- Side yard in the B-4 Zone: 10 feet (Section 30-7.2a.6). Proposed: 2 feet. The existing "Enclosed Dining Area" is shown in the plans at 2.1 feet.
- Maximum Building Height in the B-4 zone: 1 story, 14 feet (Section 30-7.2c). We note that the Applicant has not provided information or elevations for the proposed structure, or the existing "Enclosed Dining Area." This information shall be provided to the Board to evaluate compliance with these requirements.

#### D. Variances

##### Summary

Based on our review, the proposed development requires the following conditional use variances:

1. Front yard setback (Section 30-8c1) of 20 feet, whereas 5.5 feet is proposed for the prefabricated enclosure.
2. Side yard setback (Section 30-8c1) of 15 feet, whereas 2 feet is proposed for the prefabricated enclosure. The Applicant shall also provide evidence of prior approval for the enclosed dining area, which is located 2.1 feet from the side yard property line.
3. **Parking (Section 30-8c1). A minimum of 1 space per 3 seats, plus 1 employee on the peak shift is required. The Applicant has indicated that the property is presently nonconforming for parking, providing 65 spaces; however, this was based on a calculation of 215 interior seats, 80 outdoor seats, and 10 employees, which would have required 109 spaces.<sup>2</sup> The Applicant has now noted that 100 seats are provided outdoors, and 232 seats are provided indoors. Assuming that the 10 employees include all staff on site on the peak shift is correct (see comment in the following section), then the Applicant has exacerbated this nonconforming condition by increasing the required number of parking spaces to 121.**

Based upon our review, the Application requires the following bulk variances:

1. Accessory structure in the front yard. (Section 30-7.2 a. 4). An accessory structure is proposed for the front yard.

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<sup>2</sup> See prior footnote. 101 spaces would have been required if 56 seats were approved outdoors. 109 spaces would have been required if 80 seats were approved.

2. Side yard in the B-4 Zone (30-7.2a.6): 10 feet
  - a. The proposed structure is 2 feet from the side yard.
  - b. Similarly, the existing "Enclosed Dining Area" is shown in the plans at 2.1 feet. The Applicant shall provide evidence that this previously received variance relief.
3. Section 30-10.1b requires that no building or premises shall be built or erected, nor shall any building be altered so as to expand its floor area, nor shall the use of any building or premises be expanded unless there is provided parking and loading space in accordance with the requirements of Schedule B. The site is currently deficient for parking. The existing "Enclosed Dining Area" also appears to have been placed atop existing parking. Dumpsters and storage containers are located atop existing parking spaces or have otherwise rendered parking spaces unusable. The Applicant shall provide evidence that this previously received variance relief. **As noted in the previous section, the parking deficiency has been exacerbated from what was previously approved by the Borough.**
4. Section 30-10.1g requires that for all developments, the site in question shall be of adequate size to contain all required parking spaces, and that any combination of on-site and off-site parking shall not be permitted. The site is currently deficient for parking. Moreover, the Applicant has provided evidence of an off-site parking agreement, **which also would necessitate variance relief.**

In addition to the above, the site contains several existing nonconforming conditions which do not appear to be exacerbated by this application.

5. Section 30-10.1i specifies that there shall be no parking in the required front yard. This is a nonconforming condition that does not appear to be exacerbated by the proposed development.
6. Section 30-8c1. Minimum front yard of an eating and drinking establishment is required to be 20 feet, whereas 0 feet to the Sylvan Avenue right-of-way exists.

'd' Variances

#### **Criteria for D(3) Conditional Use Variance:**

The Board should note that the Court held, in Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994), that the proof of special reasons that must be adduced by an applicant for a "d" variance from one or more conditions imposed by ordinance in respect of the conditional use shall be proof sufficient to satisfy the board of adjustment that the site proposed for the conditional use, in the context of the applicant's full site plan, continues to be an appropriate site for the use despite the deviations from one or more conditions imposed by the ordinance.

Prior to Coventry Square, courts treated a conditional use that does not comply with all of the conditions of the ordinance as if it were a prohibited use, imposing on the applicant the same burden of proving special reasons as would be applicable to use variances. According to the Coventry Court, that standard is inappropriate and does not adequately reflect the significant differences between prohibited uses and conditional uses that do not comply with one or more of the conditions imposed by ordinance. A conditional-use Applicant's inability to comply with some of



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the ordinance's conditions need not materially affect the appropriateness of the site for the conditional use. The burden of proof required to sustain a use variance is too onerous for a conditional-use variance and its focus is misplaced. 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.

The finding in Coventry was that a variance can be granted if problems are accommodated even if the conditions are not met and that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance. As such, proofs to support the requested "d(3)" conditional use variance should focus on the problems associated with the deviations from the conditional use requirements that are not met rather than the problems with the use itself.

### **Positive Criteria (Special Reasons)**

The Applicant must demonstrate that the particular use is peculiarly fitted or particularly suitable to the site and its setting and that special reasons exist to support the grant of the variance application. These special reasons exist when one or more purposes of zoning are promoted (N.J.S.A. 40:55D-2).

The court also found in Saddle Brook Realty v. Board of adjustment, 388 N.J. Super. at 76, that there are three categories of circumstances where the "special reasons" may be found where: (1) the proposed use inherently serves the public good; (2) the property owner would suffer "undue hardship" if compelled to use the property in conformance with the permitted uses of the zone; or (3) the use would serve the general welfare because the "proposed site is particularly suitable for the proposed use".

The applicant should answer the following questions regarding the positive criteria:

- a. Does the proposed use inherently serve the public good?
- b. Can the property accommodate any of the uses permitted within the B-4 Zone District without "undue hardship" to the property owner?
- c. Why is this site in the B-4 Zone District particularly well-suited for the proposed use, where the proposed use is not permitted?
- d. What public purpose is served by allowing this use within the B-4 Zone District?

### **Negative Criteria**

The Applicant must demonstrate that the grant of the variances would not be substantially detrimental to the public good or substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance.

Regarding the "substantial detriment to the public good" prong of the negative criteria, the court affirmed in Medici v. BPR Co., 107 N.J. 1, that the focus is on the impact of the proposed use variance

upon the adjacent properties and whether or not it will cause such damage to the character of the neighborhood as to constitute "substantial detriment to the public good".

The court also stated, with regards to the "substantial detriment to the zone plan and zoning ordinance" prong of the negative criteria, that "the added requirement that boards of adjustment must reconcile a proposed use variance with the provisions of the master plan and zoning ordinance will reinforce the conviction expressed in *Ward v. Scott* [11 N.J. 117 (1952)], the negative criteria constitute an essential 'safeguard' to prevent the improper exercise of the variance power" (107 N.J. 22). William Cox notes that the focus is on the "extent to which a grant of the variance would constitute an arrogation of governing body and planning board authority."<sup>3</sup>

The applicant should provide the answers to the following questions regarding the negative criteria:

- a. What impact—aesthetic, noise, lighting, parking, traffic, etc.—would the grant of this use variance have on the surrounding properties?
- b. In what ways does the proposed use lessen or substantially increase any adverse impacts on surrounding properties as compared to other uses permitted in this district that could be developed on this particular lot?
- c. What changes can be made, in terms of revisions to the plan or conditions, to mitigate any of the potential increased impacts from this proposed use?
- d. Are there similar nonconforming uses nearby?
- e. What changes have occurred in the community since the adoption of the Zoning Ordinance and Master Plan that would justify an approval for this particular use?

#### 'C' Variances

For bulk 'C' variances, NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible "C" variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

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<sup>3</sup> Cox, W. M. and Koenig (Revised and Updated by Jonathan E. Drill & Lisa A. John-Basta) (2025). *New Jersey Zoning and Land Use Administration*, 2025 Edition. Newark, NJ: Gann Law Books. (p. 524-525).

The Applicant should be advised that, pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-70C), deviation from a bulk standard can be granted under either a "C(1)" hardship variance or a "C(2)" flexible variance:

- a. A "C(1)" hardship variance can be granted to relieve peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of a specific piece of property that is uniquely affected by (a) exceptional narrowness, shallowness or shape, (b) exceptional topographic conditions or physical features, or (c) other extraordinary and exceptional situation affecting the property or the lawfully existing structures. For a "C(1)" variance, the Applicant must demonstrate that there is some specific physical feature of the property that prevents compliance with the ordinance.
- b. A "C(2)" flexible variance requires the Applicant to demonstrate that the benefits of allowing the proposed deviation will substantially outweigh any detriments associated with the deviation. The Applicant must show that the requested "C(2)" variance will result in a better plan for the property.

For both "C(1)" and "C(2)" variances, the Applicant must also demonstrate to the Board that:

- a. The purposes of zoning (see N.J.S.A. 40:55d-2) would be advanced by the proposed deviation. Furthering one or more purposes of zoning would indicate that there is a benefit to granting the proposed variance.
- b. The variance can be granted without substantial detriment to the public good. The focus is on the impact of the proposed variance upon the adjacent properties and whether or not it will cause such damage to the character of the neighborhood as to constitute "substantial detriment to the public good."
- c. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Applicant must demonstrate that the variance is not inconsistent with the intent and purpose of the ordinance requirements from which relief is sought.

## E. Design Waivers/Exceptions

The Applicant has not requested any waivers/exceptions, nor have we identified any as part of our review.

## F. Comments

***Comments regarding the Applicant's second submission are in bold italic.***

1. The Applicant's professionals must provide testimony that the proposed development meets each of the conditional use criteria, or otherwise does not exacerbate any existing nonconforming conditions which would require additional 'd(3)' conditional use variance relief. ***The Planning Review memo submitted by the Applicant acknowledges that conditional use variance relief is required for the front and side yard setbacks of the proposed prefabricated structure. Based on the information provided in the most recent submission, and from the July 2025 hearing, it also appears that the Applicant has***

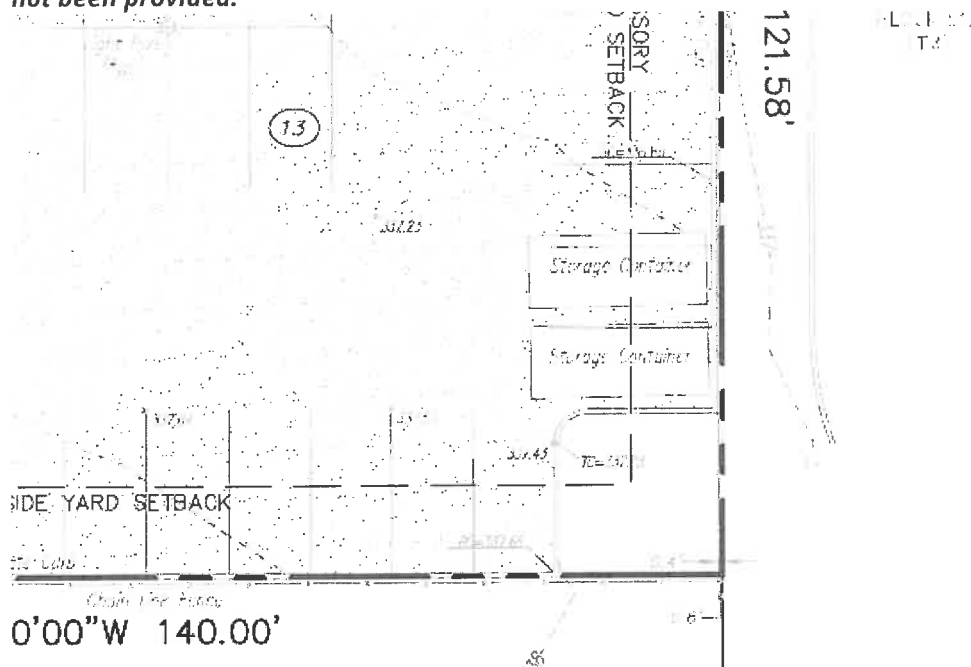
***exacerbated a preexisting nonconforming condition concerning the number of required parking spaces.***

2. The Applicant's professionals must provide testimony to support the grant of the variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL. ***Ongoing comment.***
3. Parking:
  - a. The site plan suggests that the number of parking spaces—65—is an existing nonconforming condition. The Site Plan includes a footnote, referencing a prior parking variance for 57 parking spaces,<sup>4</sup> when 101 spaces were required. This was an approval in 2003, based on the calculation of 215 existing seats, plus an additional 56 outdoor seats, plus 10 total employees. It is not clear how, despite the numerous additions to the property over the years, that the amount of seating and employees are still to remain the same. ***Ongoing comment.***
  - b. The Applicant shall provide information concerning the number of seats in the newly proposed prefabricated enclosure, number of seats in the "Enclosed Dining Area" in the parking lot, the number of seats in the existing restaurant, and any other seating areas at the restaurant, including the outdoor covered porch area. This shall be accomplished with seating charts for each section, existing and proposed, of the restaurant. ***Continuing comment, as seating charts and floor plans have not been provided. Resolution 186 K from 2003 indicates that the Applicant was approved for a restaurant containing 80 outdoor seats and 215 existing indoor seats, or a total of 295 seats. The 215 indoor seats is also noted in the approval of Resolution 168K from 1996. Testimony by the Applicant in July 2025 indicated that the restaurant contains 232 seats indoors, along with 100 seats outdoors, for a total of 332 seats, or 37 seats more than had been previously approved.***
  - c. Testimony shall be provided on the number of employees, both existing and proposed. ***The Applicant has indicated that there are 10 employees. The Applicant shall clarify if they anticipate any expansion in the number of employees. Furthermore, the Applicant shall clarify what staff are included in this calculation. For example, is that limited to restaurant staff, or are valet staff, DJs, etc. also included?***
  - d. The existing structure, identified in the survey as an "Enclosed Dining Area" appears to have been placed in a location where 3 ADA parking spaces had been. Aerial imagery suggests that this structure was constructed between March and July 2021, yet no resolutions of approval were provided for this addition. ***Ongoing comment.***

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<sup>4</sup> See prior footnotes concerning parking.

- e. Aerial imagery of the property shows that several of the parking spaces are occupied by dumpsters and storage containers. The Site Plans suggest that two of these storage containers would remain on the site (see image below). These storage containers occupy two full parking spaces, and would block an additional 2 from being used, further reducing the existing parking on the site. The Applicant shall provide evidence that approvals were granted for the placement of these storage containers or seek a variance for the reduction in parking spaces. By our count, the property contains 63 usable parking spaces, not including any parking spaces that are being blocked by dumpsters, **or the valet attendant's booth. Ongoing comment. At the July hearing, the Applicant testified that the storage containers would be removed, however revised plans have not been provided.**



- f. Section 30-10.1h specifies that "No property owner or lessee shall permit (by agreement in any form) the premises to be used for off-street parking which is not directly related to the building parking requirements of that site, without Planning Board approval. If there are no buildings on a site or lot, parking is prohibited unless there is approval by the Planning Board." As this parking agreement was signed in 2021, the Applicant shall provide evidence of Board Approval, or seek the appropriate variance relief. **Ongoing comment.**
4. The Applicant shall provide exterior renderings and elevations for the proposed structure. **Ongoing comment.**
5. The first page of the site plans incorrectly suggests this property as being zoned B-1. **Ongoing comment, as no revised plans have been submitted.**

6. We defer to the Board Engineer on comments relating to any proposed site grading, drainage, and utility improvements.
7. The Applicant shall be responsible for any applicable development fees.
8. ***The revised submission, consisting solely of a planning analysis and a Traffic and Parking Assessment ("Traffic report") report, contains several internal inconsistencies that must be addressed:***
  - a. ***The Traffic Report notes that the restaurant contains 232 indoor seats, 56 outdoor seats, and 44 seats in a covered pergola, for a total of 332 seats. By contrast, the planning analysis identifies 215 indoor seats, 56 outdoor seats, and 44 seats in a covered tent, for a total of 315 seats.***
9. ***The planning analysis memo suggests that in addition to the paver patio area, the wooden deck area will be weatherproofed. The Applicant shall clarify.***
10. ***The planning analysis memo also suggests that the proposed prefabricated enclosure will be connected to the principal structure. This has not been made evident by the plans presented. The Applicant shall clarify.***
11. ***Additional details concerning the enclosed outdoor seating area structures should be provided. The plans provided do not indicate if they will be serviced by gas, electric, water, or wastewater. Additionally, information shall be provided as to how they will be lighted, and whether or not there will be amplified music to either structure.***

Should you have any questions concerning the above comments please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design, Inc.



Nicholas Dickerson, PP, AICP, CFM  
Board Planner

cc: Thomas Randall, Esq., Board Attorney (via email)  
Craig Zimmerman PE, & Michael O'Krepky Board Engineer (via email)  
Gregg F. Paster, Esq., Applicant's Attorney

# STONEFIELD

August 27, 2025

Planning Board  
Borough of Englewood Cliffs  
482 Hudson Terrace  
Englewood Cliffs, NJ 07632

**RE: Traffic & Parking Assessment Report  
Proposed Restaurant Enclosure  
495 Sylvan Avenue  
Block 512, Lot 3  
Borough of Englewood Cliffs, Bergen County, New Jersey  
SE&D Job No. RUT-250276**

Dear Board Members:

Stonefield Engineering and Design, LLC (“Stonefield”) has prepared this analysis to examine the potential traffic and parking impacts of the proposed courtyard enclosure to the existing restaurant on the adjacent roadway network. The subject property is located at the southeasterly quadrant of the intersection of Sylvan Avenue and East Palisade Avenue in the Borough of Englewood Cliffs, Bergen County, New Jersey. The subject property is designated as Block 512, Lot 3 as depicted on the Borough of Englewood Cliffs Tax Map. The site has approximately 142 feet of frontage along Sylvan Avenue and approximately 299 feet of frontage along Palisade Avenue. The existing site is occupied by the Lefkes Estiatorio restaurant. The existing access is provided via one (1) full-movement driveway and one (1) egress-only driveway along Palisade Avenue. Under the proposed development program, the existing 56-seat outdoor patio space would be weatherproofed with a 1,537-square-foot temporary enclosure with retractable roof and swivel walls. No changes to the indoor dining area are proposed. Access is proposed to remain via one (1) full-movement driveway and one (1) egress-only driveway along Palisade Avenue.

## Existing Conditions

The subject property is located at the southeasterly quadrant of the intersection of Sylvan Avenue and East Palisade Avenue in the Borough of Englewood Cliffs, Bergen County, New Jersey. The subject property is designated as Block 512, Lot 3 as depicted on the Borough of Englewood Cliffs Tax Map. The site has approximately 142 feet of frontage along Sylvan Avenue and approximately 299 feet of frontage along Palisade Avenue. Land uses in the area are a mix of residential, medical, commercial, and industrial uses.

Sylvan Avenue (U.S. Route 9W) is classified as an Urban Principal Arterial roadway with a general north-south orientation, and is under the jurisdiction of the New Jersey Department of Transportation (NJDOT). Along the site frontage, the roadway provides two (2) lanes of travel in each direction, with additional lanes provided at key intersection to facilitate turning movements, and has a posted speed limit of 35 mph. Curbs are provided along both sides of the roadway, sidewalks are provided along the westerly side of the roadway and intermittently provided along the easterly side of the roadway, shoulders are not provided, and on-street parking is not permitted. Sylvan Avenue provides north-south mobility within Bergen County for a mix of commercial and medical uses along its length.

East Palisade Avenue (County Route 505) is classified as an Urban Principal Arterial roadway with a general east-west orientation, and is under the jurisdiction of Bergen County. Along the site frontage, the roadway provides one (1) lane of travel in each direction, with additional lanes provided at key intersection to

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facilitate turning movements, and has a posted speed limit of 40 mph. Curb and sidewalk are provided along both sides of the roadway, shoulders are not provided, and on-street parking is not permitted. East Palisade Avenue provides east-west mobility within the Borough of Englewood Cliffs and the surrounding municipalities, and provides access to the Palisades Interstate Parkway to the east of the study area, for a mix of residential, commercial, and medical uses along its length.

Sylvan Avenue and East Palisade Avenue intersect to form a signalized four (4) leg-intersection. The eastbound approach of East Palisade Avenue provides one (1) exclusive left-turn lane and one (1) shared through/right-turn lane and the westbound approach of East Palisade Avenue provides one (1) shared left-turn/through lane and one (1) shared through/right-turn lane. The northbound and southbound approaches of Sylvan Avenue provide one (1) exclusive left-turn lane, one (1) exclusive through lane, and one (1) shared through/right-turn lane. Crosswalks and pedestrian ramps are provided across the easterly, southerly, and westerly legs of the intersection.

### Operations

Under existing conditions, the existing restaurant operates with an indoor dining area with 232-seats, an outdoor patio with 56-seats, and a covered pergola tent with 44-seats. Under the proposed development program, a 1,537-square-foot temporary enclosure with a retractable roof and swivel walls will be retrofitted to the outdoor 56-seat patio. The flexibility allows for the patio to serve existing customer demand for typical dining or private dining events for more of the year than just the current outdoor dining area. The proposed development would not impact the operations of the existing restaurant.

Regarding the parking operations of the existing restaurant, restaurant visitors have the option to self-park in the on-site parking lot or utilize the provided valet service. When demand is warranted, the valet service utilizes the 61-space parking lot located on the adjacent property to the east between the hours of 7:00 p.m. to 12:00 a.m. on Wednesdays through Sundays. The adjacent property is occupied by an office building serving the ConnectOne Bank, as such the office would not be operational during the restaurant valet hours.

### Trip Generation

Trip generation projections for the existing and proposed restaurant were prepared utilizing the Institute of Transportation Engineers' (ITE) Trip Generation Manual, 11<sup>th</sup> Edition. Specifically, trip generation rates associated with Land Use 931 "Fine Dining Restaurant" were cited for the restaurant. The existing restaurant has 232 indoor seats, a 44-seat pergola tent, and a 56-seat outdoor patio, for a total capacity of 332 seats. Under proposed condition, the outdoor patio would be retrofitted with a temporary enclosed roof for year-round use, and would continue to provide 56-seats. As such, there are no changes proposed to the capacity of the restaurant. **Table I** provides the weekday evening, Saturday midday, and Saturday evening peak hour trip generation volumes associated with the development.

**TABLE I – EXISTING AND PROPOSED TRIP GENERATION**

Land Use	Weekday Evening Peak Hour			Saturday Midday Peak Hour			Saturday Evening Peak Hour		
	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total
332 Seats Fine Dining Restaurant <i>ITE Land Use 931</i>	62	31	93	57	40	97	65	45	110

The proposed development is not anticipated to generate any new trips. Based on the Multimodal Transportation Impact Analysis for Site Development published by ITE, a trip increase of less than 50 vehicle trips would likely not change the level of service of the adjacent roadway system or appreciably increase the volume-to-capacity ratio of an intersection approach. As such, the proposed development is not anticipated to significantly impact the operations of the adjacent roadway network.

### **Site Circulation/Parking Supply**

A review was conducted of the proposed restaurant enclosure using the Site Plan prepared by L2A Land Design, LLC, dated June 9, 2025. In completing this review, particular attention was focused on the site access, circulation, and parking supply.

Under the proposed development plan, the existing restaurant with a 232-seats indoor dining room, and 44-seat pergola tent would remain, and the existing outdoor 56-seat patio dining area would be weatherproofed with a 1,537-square-foot enclosure with retractable roof and swivel walls. The weatherproofed patio would operate primarily for private events, and would serve as general restaurant seating when the indoor seating is at capacity. No other changes to the site are proposed.

Regarding the parking requirements for the proposed development, the Borough of Englewood Cliffs requires one (1) space per every three (3) seats, and one (1) space for each employee for restaurant uses. For the restaurant with a total of 332-seats (inclusive of 17 barstool seats), with ten (10) employees this equates to a total parking requirement of 121 spaces. The site provides 65 total parking spaces, inclusive of two (2) ADA accessible parking spaces. In addition, 61 spaces are provided on the adjacent lot, for a total parking supply of 126 spaces. The proposed improvements will have no impact on the required parking. As such, the existing parking supply would be sufficient to support the proposed improvements. The spaces are nine (9) feet wide by 18 feet deep in accordance with industry standards.

### **Conclusions**

This report was prepared to examine the potential traffic impact of the proposed restaurant enclosure. The analysis findings, which have been based on industry standard guidelines, indicate that the proposed development would not have a significant impact on the traffic operations of the adjacent roadway network. The site driveways and on-site layout have been designed to provide for effective access to and from the subject property. Based on the existing operations, and the availability of valet parking on the adjacent property during peak operating hours, the existing parking supply would be sufficient to support the development.

Please do not hesitate to contact our office if there are any questions.

Best regards,



Matthew J. Seckler, PE, PP, PTOE  
**Stonefield Engineering and Design, LLC**



Justine K. Fox, PE  
**Stonefield Engineering and Design, LLC**

**Subject Site:**

Lefkes Restaurant  
495 Sylvan Ave  
Englewood Cliffs, NJ 07632  
Block 512, Lot 3

**Site Location:**

The subject lot is located at 495 Sylvan Avenue in Englewood Cliffs. The subject lot is 0.8085 acres (approximately 35,000 square feet). The existing structure on the site is a two and half-story masonry building, currently used as a Greek restaurant commonly known as Lefkes. The building sits on the front lot line and includes a covered patio, a paver patio, and a surface parking lot.

The subject property is located in the B4 (Restricted Commercial) Zone. The adjacent properties to the south, east, and west across Sylvan Avenue are located in the B4 Zone.

The restaurant consists of an indoor dining area with 215 seats, and outdoor patio with 56-seats, and a covered tent with 44 seats. The site consists of on-site parking and a valet service. The valet service provides an additional 61 parking spaces off-site at the ConnectOne Bank.

**Project Description:**

The Applicant is proposing to construct a pre-fabricated enclosure over the existing outdoor patio and wood deck. The existing areas consists of a dining area with fifty-six (56) seats. The proposed pre-fabricated enclosure will consist of fifty-six (56) seats and a retractable roof. The Applicant is not proposing to expand the number of seats within the enclosure and the restaurant is look at this as a as a direct replacement. However, the enclosure will utilize a retractable roof making the seating available throughout the year and during inclement weather.



Figure 2 Image of the Site from the east. Photo courtesy of Hi Class Magazine

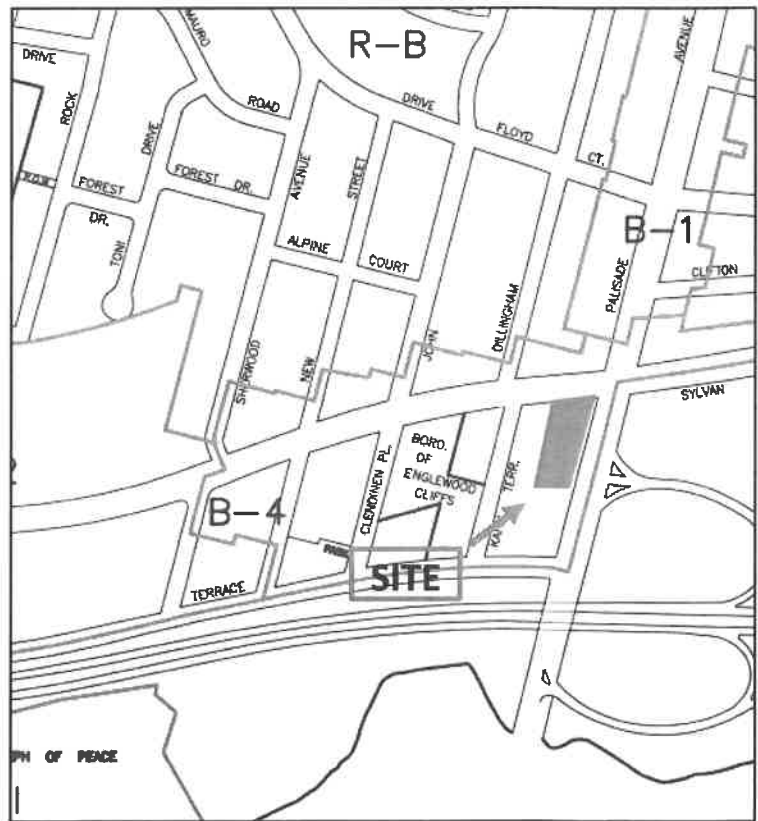


Figure 1 Snip of Englewood Cliffs Zoning Map

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**MOUNTAINSIDE**

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Mountainside, NJ 07092  
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Additionally, the weatherproofing system will consist of a total area of 1,537 square feet all of which is an existing deck.

## **Prior Approvals**

*Planning Board – December 2003*

Applicant: The Assembly Restaurant

Received site plan approval with variance relief. Variance relief for the construction of an accessory structure (shed) in the front yard.

*Planning Board – May 2003*

Applicant: The Assembly Restaurant

Site plan approval with variance relief for the construction of an outdoor seating area with 80 seats and 57 parking spaces.

*Planning Board – December 1997*

Applicant: Eleven K Restaurant Corp.

Final “K” approval of the application.

*Planning Board – October 1996*

Applicant: Eleven K Restaurant Corp.

Site Plan approval and variances for minimum front yard, side yard, sign area, off-street parking, drive aisle width, parking space dimensions, parking in the front yard, maximum width of a driveway, and parking spaces within 10 feet of any lot line on a corner lot.

*Planning Board – April 1996*

Applicant: Eleven K Restaurant Corp.

Site plan approval for a restaurant in the B-4 zone district, requiring variances for minimum front yard, side yard, sign area, off-street parking, drive aisle width, parking space dimensions, parking in the front yard, maximum width of a driveway, and parking spaces within 10 feet of any lot line on corner lots.

*Zoning Board of Adjustment – April 1994*

Applicant: United Jersey Bank

Construction of 3 signs.

*Planning Board – March 1990 and October 1991*

Applicant:

Expansion and integration of two (2) sites.

## **Conditional Uses Permitted:**

1. Banks with drive-in facilities.
2. Eating and drinking establishments, excluding fast food restaurants.

Eating and drinking establishments are a conditionally permitted use in the B-4 (Restricted Commercial) Zone. The Borough requires eating and drinking establishments to meet the requirements outlined in the table on the next page. Any deviation from the requirements would result in a ‘D3’ variance.

Conditional Uses Permitted in the B-3 and B-4 Districts				
Eating and Drinking Establishments				
Regulation	Permitted	Existing	Proposed	Notes
Min. Lot Size	10,000 square feet	35,501.00 square feet	35,501.00 square feet	No Change
Min. Lot Width	100 feet	141.50 feet	141.50 feet	This measurement shall be confirmed through testimony from the engineer who prepared the site plan.
Min. Lot Depth	100 feet	Existing	Existing	This measurement shall be confirmed through testimony from the engineer who prepared the site plan.
Front Yard	20 feet	0 feet	5.5 feet to proposed retractable roof and walls	Existing Non-Conforming (1)
Rear Yard	20% of lot depth	Existing	Existing	This measurement shall be confirmed through testimony from the engineer who prepared the site plan.
Side Yard	15 feet	2.1 feet	2 feet to proposed retractable roof and walls	Owner will provide testimony regarding existing outdoor dining area
Max. Coverage	33.33%	22.78%	22.79%	
Building Height	2 stories / 30 feet	< 35 feet / 2 stories	< 35 feet / 2 stories	Height measurement will be confirmed through testimony
Off-Street Parking	1 space per 3 seats plus 1 space per each employee on the peak shift (101 spaces)	65 spaces	65 spaces	Existing non-conforming condition, no additional seating is proposed with this application

Based on the Borough's planners report prepared by Nicholas Dickerson the application will require a 'D3' Conditional Use Variance for the two (2) deviations identified in the zoning table in blue.

## Criteria for Granting D(3) Conditional Use Variance:

Pursuant to N.J.S.A. 40:55D-70d(3) and keeping with the courts, the burden for applicants is lightened for a d(3) variance (Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994)). Therefore, the focus of the board considering this application shall not be on whether the use is compatible with the other uses in the zone as the board has previously determined this. The focus on this application shall be the deviation from the standard in the context of the total proposed development.

The deviations from the conditional requirement are as follows:

1. Section 30-8c1 – Minimum Front Yard Setback – the prefabricated structure is proposed to have a front yard setback of 5.5 feet, whereas 20 feet is permitted.
2. Section 30-8c1 – Minimum Side Yard Setback – the prefabricated structure is proposed to be located 2 feet from the side yard lot line, whereas 15 feet is permitted.

In relation to the entire project, the proposed structure is located in such a way as to be in line with the existing principal structure and to be located on top of an existing deck. The structure is not proposed to be closer to the street than the existing conditions and the retractable walls will continue the street wall from the principal structure. Although the proposed project is being called a “prefabricated structure” the proposed structure will simply be a retractable roof and wall system that is meant to be easily converted during inclement weather. The structure will not be making the restaurant any larger but, will facilitate the outdoor space to be utilized more efficiently. The structure will not go beyond the existing deck and while “walls” are being proposed and encroaching on the side yard they are not permanent. To further express the simplicity of the structure it will take less than a day to construct and should be considered a “weatherproofing” mechanism.

## Deviations from the Zoning Ordinance:

In addition to the ‘D3’ variance, this application will also request variance relief for the following:

- Section 30-7.2 a. 4 - Accessory structure in the front yard. An accessory structure is proposed for the front yard.
- Section 30-7.2a.6 - Side yard in the B-4 Zone: 10 feet. The proposed structure is 2 feet from the side yard.
- Section 30-10.1b requires that no building or premises shall be built or erected, nor shall any building be altered so as to expand its floor area, nor shall the use of any building or premises be expanded unless there is provided parking and loading space in accordance with the requirements of Schedule B. The current use has an agreement with an adjacent property owner for parking. In addition, the proposed structure is being built in an area as to avoid the elimination of additional parking spaces.
- Section 30-10.1g requires that for all developments, the site in question shall be of adequate size to contain all required parking spaces, and that any combination of on-site and off-site parking shall not be permitted. The subject lot is not able to park all of the spaces on the lot. However, evidence of an off-site parking agreement has been provided. Additionally, this parking agreement has been in place and the restaurant has been utilizing the adjacent property for parking for many years.

## ‘D’ Variance Positive Criteria:

The subject property can accommodate the proposed retractable roof and walls within the existing restaurant’s deck despite not meeting all of the conditional use standards. The use of a restaurant at this location continues to remain

appropriate for a conditional use as the site has a long history as a restaurant use based on the Board Approval history detailed earlier in this report. Additionally, Google Earth Streetview shows the existence of a restaurant at this particular location since 2007. Coventry Square v. Westwood Board of Adjustment, 138 N.J. 285, 298-299 (1944), found the standard does not require a finding that the site is particularly suitable for the use.

Many of the “negative” aspects of outdoor dining will be mitigated within this proposal. Sound and light are often the biggest complaints for adjacent properties and the proposed enclosure will mitigate the light and sound from adjacent. Post COVID-19, many municipalities are begun to amend ordinances to permit outdoor dining after experiencing the success and positive feedback from residents and business owners. The pandemic exposed the fragility of local businesses and the need to diversify and creatively address making spaces work.

#### **‘D’ Variance Negative Criteria:**

As to the negative criteria of a ‘D3’ conditional use variance, the Coventry Square Court held that the strict requirements applicable to ‘D1’ use variances do not apply to the first prong of the negative criteria of a ‘D3’ variance (whether the variance can be granted without substantial detriment to the public good). Instead, the Board’s focus in a ‘D3’ conditional use variance case must be on whether conditions can be imposed in its approval to ensure that the deviations from the conditional use requirements do not cause substantial detriment to the public good.

The proposed project will not harm the public good and won’t substantially impair the intent and purpose of the zoning ordinance or master plan. My client will be constructing an enclosure around an existing outdoor dining area. The enclosure is simply weather proofing the deck and the walls and roof will be retractable and are not intended to be permanent.

The proposed enclosure will reduce noise and lighting impacts while improving the overall aesthetic quality of the site. While the Applicant does not meet parking requirements, previous variance approvals and the existing parking agreement indicate that the Applicant has been flexible in accommodating customers’ needs. This enclosure would not affect existing traffic patterns and would not enlarging the capacity of the restaurant.

Nearby, Giovanni’s Bicycle Club, an Italian restaurant, is within the B4 zone and does not meet yard setback requirements and is built up to the property line. There is limited parking space on site for this restaurant, which is mitigated by using nearby parking lots. High parking requirements limit the amount of space that can be used by customers and thus limit the vitality of commercial areas. Other restaurants and municipalities in New Jersey have robust outdoor dining standards that support the experience of customers over automobiles. The Borough has not adopted detailed outdoor dining standards like other municipalities have in light of Governor Murphy signing S3608/A4866 into law, which made outdoor dining permissions permanent.

#### **‘C’ Variance Positive Criteria**

The requested variance for an accessory structure in the front yard, no building or premises shall be built or erected, nor shall any building be altered so as to expand its floor area, nor shall the use of any building or premises be expanded unless there is provided parking and loading space in accordance with the requirements of Schedule B, and the site in question shall be of adequate size to contain all required parking spaces, and that any combination of on-site and off-site parking shall not be permitted can be granted in accordance with the “c(1)” hardship criteria, as the subject property has long been developed with an existing building with no parking, and with no room to provide any parking without removing part of the building. There would be no benefits to doing so, which would be the same case for any permitted use. The subject property is in a convenient location with ample existing on- and off-street parking in the vicinity as evidenced by the parking agreement with the bank. There are also multiple restaurants in the area that utilize parking agreements with

adjacent properties including Giovanni's Bicycle Club. By the same token, the retractable roof and walls will be connected to the principal structure and if the structure was proposed to be located further back would encroach on the parking lot and potentially eliminate parking spaces.

My client's project will further the following purposes of the Municipal Land Use Law:

g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens; The proposed structure will be located over an existing deck and create a weatherproofing of the deck so the space can be utilized more often. The restaurant is located in an area of the Borough that is surrounded by other restaurants, many of which that utilize a similar weatherproofing system.

i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement. The location of the enclosure will be in line with the façade of the existing building. The system will be an extension of the restaurant but it will not be increasing the size or capacity. The restaurant has and will continue to be well maintained with landscaping and pedestrian level aesthetic features.

The proposed project will not create a negative impact on the adjacent properties as the deck is an existing structure on site. Additionally, many of the adjacent properties have similar outdoor dining areas and it appears a standard is being created within the Borough's commercial area on Sylvan Avenue. My client will continue to maintain the property with lush landscaping and the enclosure will assist with any lighting or sound that has historically been generated from the deck. The parking requirement will not be increased by the enclosure as the capacity at the restaurant will not be increased. Therefore, the parking agreement that has been in place for many years will remain as my client has found it to be successful.

### Relationship to the Master Plan:

The Borough's 2009 and 2019 Master Plan and Master Plan Re-Examination Reports identified the need to address land use conditions along Sylvan Avenue. Specifically, the document calls out the need for aesthetic enhancements in business zones, including the B4 zone. In the application at hand, the Applicant is proposing to enhance the aesthetics of the restaurant and to replace an old outdoor dining space with a modern design more in line with modern design practices. The 2019 Re-Examination Report states that this is an ongoing priority for the Borough.

Additionally, the 2019 Re-Examination Report recommends the Borough reevaluate its off-street parking requirements, especially along Sylvan Avenue. It also recommends the Borough conduct an analysis of existing setbacks and building heights to see if they should be modified to accommodate existing structures and uses. Lastly, the report recommends the Borough reevaluate commercial zoning to ensure that permitted, conditional, and prohibited uses are reflective of current business types and demands.

While neither a master plan nor a master plan re-examination have been completed since the 2020 pandemic, many restaurants in the Borough have added outdoor dining space to accommodate customers' desires to dine outside the confines of the existing principal structures.



Figure 3 Google Earth Aerial Image of the Site from 2003

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## **Conclusion**

The construction of an enclosure around the existing outdoor dining area would have a positive impact along the Sylvan Avenue corridor. The site has long served customers with flexible dining options, and the Applicant is proposing to enhance the aesthetic quality of the site. There are a number of nearby restaurants that have adapted to strict development standards to serve their customers, including variances to bulk yard requirements. This proposal is in line with the neighborhood context. Additionally, the structure will be located on an existing deck and will not be creating additional seating. The walls and roof will be retractable and will be weatherproofing the area to better utilize the deck.

While the new enclosure structure is a conditional use in the B4 zone, the proposed improvements would greatly improve the site's aesthetic qualities and further improve compatibility with surrounding uses. The proposed project will have positive impacts on the community, it is in line with the Master Plan, the purposes of the MLUL, and the zoning ordinance and will not have any negative impacts on the Borough of Englewood Cliffs.

For reasons detailed in this report, the positive criteria would be addressed for the requested variances. In addition, the granting of the requested variances would not result in a substantial impairment of the public good and would not substantially impair the intent and the purpose of the zone plan and zoning ordinances of Englewood Cliffs. Therefore, the requested variances can be granted in accordance with statutory requirements.