

**PLANNING BOARD OF ADJUSTMENT
BARNEGAT LIGHT
DECEMBER 20, 2023**

THE PLANNING BOARD MEETING was called to order at 5:00pm by Chairman Gutowski who stated that notice of this meeting has been published and posted in accordance with requirements set forth in the New Jersey Open Public Meetings Act.

The Pledge of Allegiance followed.

ROLL CALL: Gutowski, Snieckus, Sulock, Washburn, Larson, Manookian,
ABSENT: Mikuletzky, Mescolotto, Patterson
Also present, Board attorney Joe Coronato Jr. and secretary Cecile Hodgson

MINUTES OF NOVEMBER 15, 2023 MEETING

AT THIS TIME, Chairman Gutowski asked for a motion to approve the minutes of the November 15, 2023 meeting.

MOTION: Larson

SECOND: Washburn

VOTE: Gutowski, Snieckus, Sulock, Washburn, Larson,

ABSTAIN: Manookian

NAYS: None

ABSENT: Mikuletzky, Mescolotto, Patterson

AT THIS TIME, Chairman Gutowski asked for a motion to approve resolution 2023-05 of approval of application 2023-02

MOTION: Washburn

SECOND: Larson

VOTE: Gutowski, Snieckus, Sulock, Washburn, Larson,

ABSTAIN: Manookian

NAYS: None

ABSENT: Mikuletzky, Mescolotto, Patterson

**RESOLUTION# 2023-05 RESOLUTION
OF APPROVAL APPLICATION OF
ZIMAN DEVELOPMENT
APPLICATION #PB-2023-02**

IN THE MATTER OF
ZIMANDEVELOPMENT
BARNEGAT LIGHT

NUMBER 2023-02
BLOCK 55; LOT 13
11 East 28TH STREET

WHEREAS, an application has been made to the Borough of Barnegat Light Planning Board (the "Board") by Ziman Development (the "applicant"), for a Minor Subdivision approval. The Applicant proposes to subdivide the existing 12,500 SF lot into two equal 6,250 SR lots. The lot is presently developed with a single-family dwelling, which will be demolished, and a new single-family home will be constructed on each lot. The property is known as 11 East 28th Street in the Borough of Barnegat Light, NJ, Block 55, Lot 13 as depicted on the Tax Maps of the Borough of Barnegat Light, Ocean County, New Jersey, and said premises being located in the R-B Two Family residential Zone; and

WHEREAS, the Applicant has satisfied the noticing requirements of the New Jersey Municipal Land Use Law and provided proof of same to the Barnegat Light Planning Board; and

WHEREAS, the Applicant was represented by James Raban, Esquire; and

WHEREAS, the Barnegat Light Planning Board reviewed the application, documents, plans and exhibits as submitted, and listened to the applicant and received information from its professional staff; and

WHEREAS, the Board heard the testimony and the evidence presented by the applicant and received comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Planning Board of the Barnegat Light, County of Ocean, and State of New Jersey, on the 15th day of November, made the following findings:

1. The Board found the application complete.
2. According to the application, the Applicant is requesting Minor subdivision approval. The plans reflect that the site is an existing lot of 12,500 SF. The applicant proposes to demolish the existing single-family residence on the existing lot and create two equal 6,250SF lots. A new single-family home will be constructed on each lot.
 - A. There are no variances being requested.
 - B. There are two waivers being requested. No curb or sidewalks are proposed.
3. In support of the application, the Applicant submitted the following documents:
 - A. Site Plan, one (1) sheet prepared by Horn, Tyson &

Yoder, Inc., signed by Leon J. Tyszka, PLS and dated 8/30/2023 with no revisions.

4. During the public hearing held on November 15, 2023; the Planning Board discussed the following review letters prepared by the Board's professionals, the contents of which are hereby adopted and incorporated in full:
 - A. Review letter dated November 6, 2023, by the Planning Board Engineer, Frank Little, P.E., P.P., C.M.E.
5. The Planning Board has received no review letters/memos from the Barnegat Light Officials.
6. During the public hearing, there were no exhibits marked into evidence:
7. Based upon the comments of the Applicant's Attorney, James Raban, Esquire, the Board heard the following:
 - A. The Applicant requested a Minor Subdivision approval to create two conforming single-family lots.
8. Based upon the sworn testimony of James Brzozowski, P.E., the Board made the following findings of fact:
 - A. The Applicant proposes to subdivide an existing 12,500 SF lot into two equal 6,250 lots which conforms to the zone. The existing single-family dwelling will be demolished, and a new single-family dwelling will be constructed on each new lot created. The new dwellings will meet all the bulk requirements for the zone.
 - B. The Applicant is requesting two waivers for curb and sidewalks. No curb or sidewalks exist along the frontages of the properties in the area.
 - C. The Applicant will conform to all FEMA flood requirements and drainage requirements.
 - D. The Applicant will tie into public water and sewer utilities and upgrade the laterals if required.
9. The adjoining property owner supported the application so long as the applicant properly addressed drainage.

CONCLUSIONS OF LAW

WHEREAS, the Board determined that the Applicant's Minor Subdivision plan pursuant to *N.J.S.A. 40:55D-46* and *N.J.S.A. 40:55D-50* was found to be sufficient as to style and design, and the Board approved the Applicant's request; and

WHEREAS, the no variance were being requested and the two lots being created were conforming; and

WHEREAS, the Board has determined that the two waivers sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Barnegat Light.

NOW, THEREFORE, BE IT RESOLVED, by the Barnegat Light Planning Board, in the County of Ocean and State of New Jersey, on the 20th day of December 2023, upon a motion made by Washburn and seconded by Larson that the application of Seventh St. LLC be granted, subject to the following terms and conditions:

1. The Applicant shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of November 15, 2023.
2. The Applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance, if required.
3. The Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the Applicant shall comply with any requirements or conditions of such approvals or permits.
4. The Applicant must comply with the Development Fee Ordinance of the Borough of Barnegat Light, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.
5. The Applicant is required to provide for any and all of the regulatory approvals required by law including, but not limited to the Ocean County Planning Board.
6. The Applicant is required to post all necessary site performance bonds, inspection fees and all professional review fees in

accordance with the Ordinance

7. Publication of a notice of this decision will be published in the official newspaper of the Barnegat Light Planning Board at the cost of the Applicant.

ADOPTED this 20th day of December 2023.

VOTE ON ROLL CALL:

IN FAVOR: Gutowski, Snieckus, Sulock, Washburn, Larson,

OPPOSED: None

ABSTAIN: Manookian

NOT- PRESENT: Mikuletzky, Mescolotto, Patterson

CERTIFICATION

It is hereby certified that the attached is a true copy of the Resolution for Application #2023-02, approved on November 15, 2023 and duly adopted as to form by the Barnegat Light Planning Board and memorialized at its regular meeting held on the December 20, 2023.

Chairman James Gutowski
Borough of Barnegat Light
Planning Board

Secretary Cecile Hodgson
Borough of Barnegat Light
Planning Board

AT THIS TIME, Chairman Gutowski asked for a motion to approve resolution 2023-06 of approval of application 2023-03

MOTION: Washburn

SECOND: Larson

VOTE: Gutowski, Snieckus, Sulock, Washburn, Larson,

ABSTAIN: Manookian

NAYS: None

ABSENT: Mikuletzky, Mescolotto, Patterson

RESOLUTION# 2023-06
RESOLUTION OF APPROVAL
APPLICATION OF
SEVENTH STREET, LLC

APPLICATION #PB-2023-03

IN THE MATTER OF : PLANNING BOARD OF THE BOROUGH
SEVENTH STREET, LLC : OF BARNEGAT LIGHT
: NUMBER 2023-03
: BLOCK 14; LOT 29
: 28 W. 7TH STREET

WHEREAS, an application has been made to the Borough of Barnegat Light Planning Board (the "Board") by Seventh Street, LLC (the "applicant"), for a Major Site Plan approval. Additionally, a variance is needed to meet the parking requirements. This application is considered to be an Amended Preliminary and Major Site Plan. The property known as 28 W. 7th Street in the Borough of Barnegat Light, NJ, Block 14 Lot 29 as depicted on the Tax Maps of the Borough of Barnegat Light, Ocean County, New Jersey, and said premises being located in the M-C Marine Commercial Zone; and

WHEREAS, the Applicant has satisfied the noticing requirements of the New Jersey Municipal Land Use Law and provided proof of same to the Barnegat Light Planning Board; and

WHEREAS, the Applicant was represented by James Raban, Esquire; and

WHEREAS, the Barnegat Light Planning Board reviewed the application, documents, plans and exhibits as submitted, and listened to the applicant and received information from its professional staff; and

WHEREAS, the Board heard the testimony and the evidence presented by the applicant and received comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Planning Board of the Barnegat Light, County of Ocean, and State of New Jersey, on the 15th day of November, made the following findings:

1. The Board found the application complete.
2. According to the application, the Applicant is requesting an amended preliminary and Major Site plan approval. The plans reflect that the site has a 2-story restaurant building and one apartment locally known as Kubel's Bar with an adjacent

parking lot area. The applicant proposes to construct a 691 SF deck addition to the south of the existing outdoor deck on the southside of the property. There are 40 additional outdoor seats proposed with the proposed outdoor deck addition. Eighteen (18) seats will be eliminated in the interior of the restaurant. The Applicant is requesting a waiver from any requirements to submit and the following variances and waivers:

A. The following are variances being requested:

1. The Existing Front Yard Setback on Bayview Avenue is 14 FT where 25 FT is required. This is an existing non-conformity; no change is proposed.
2. The Existing Front Setback on the 7th Street is 4.5 FT where 15 FT is required. This is an existing non-conforming condition.
3. The parking requirements for restaurant use are 1 space per 3 seats where 71 spaces are required, and 44 spaces are provided. (Total Existing indoor seats 155 seats and the removal of 18 seats. Existing seats on the existing deck 36. Proposed seats on the new deck 40. Total existing & proposed seats 213. Therefore 71 spaces are required, and 44 spaces being provided) A variance is required.
4. A 10 FT by 25 FT loading zone exists adjacent to Bayview Avenue where two (2) loading zones are required. This is an existing non-conforming condition.

B. The following are the waivers being requested:

1. The Applicant has requested a waiver from any requirement to submit a formal site plan as the site is fully developed.

3. In support of the application, the Applicant submitted the following documents:

C. Site Plan, One (1) sheet prepared by Horn, Tyson & Yoder, Inc., signed by James D. Brzozowski, PE, PP and dated 8/07/2023

4. During the public hearing held on November 15, 2023; the Planning Board discussed the following review letters prepared by the Board's professionals, the contents of which are hereby adopted and

incorporated in full:

- a. Review letter dated November 6, 2023, by the Planning Board Engineer, Frank Little, P.E., P.P., C.M.E.
5. The Planning Board has received no review letters/memos from the Barnegat Light Officials.
6. During the public hearing, there were no new exhibits marked into evidence:
7. Based upon the comments of the Applicant's Attorney, James Raban, Esquire, the Board heard the following:
 - a. The Applicant requesting and extension of the existing deck of approximately 15 Ft by 46 FT.
 - b. The Applicant needs 71 parking spaces, and 44 spaces are being provided. He went on to explain during the Covid emergency outdoor dining existed without any parking issues and the site functioned well.
8. Based upon the sworn testimony of James Brzozowski, P.E., the Board made the following findings of fact:
 - a. The Applicant currently operates a 2-story restaurant building with one apartment.
 - b. Mr. Brzozowski described the proposed site plan and the existing conditions, which cannot be changed.
 - c. The existing three (3) parking stalls adjacent to Bayview Avenue will be reconfigured to provide four (4) parking stalls delineated by wheel stops. This will increase onsite parking from 43 spaces to 44 spaces.
 - d. Two (2) handicap parking stalls are provided.
 - e. The existing parking lot is gravel surface and the distance from the angled parking spaces to the new deck provides an 18.5 FT drive aisle for exiting vehicles, which is adequate.
 - f. During the COVID emergency outdoor dining and a tent was utilized in the parking lot and the parking for the restaurant was able to function properly. Based on the seating for 213 seats, granting a variance for the parking where 71 spaces are required, and 44 spaces are being provided is adequate. Due to the location of the restaurant many people walk to the site. There will be no detriment to the zoning plan. The positive

- criteria outweigh any negative criteria.
9. Based upon the sworn and qualified testimony of the Applicant's witness, Manager, Michele Egan the Board made the following findings of fact:
 - a. The Board finds that the restaurant will not have the capacity to exceed 213 seats. There will be no outdoor music and there will be no outdoor bar on the deck. No seating nor service will take place after 9 PM.
 - b. During the winter months the deck will not be utilized but under no circumstances will the restaurant operate at any time with more than 213 seat capacity.
 - c. The applicant intends to come back and install an awning or roof type structure over the proposed deck. The applicant would come back within 60 days to show the structure and lighting plan for the awning type structure.
 - d. The applicant agreed that they will not seek an extension based on the Governors emergency Covid Act for outdoor dining. The tent-like structure will be taken down by November 30th 2023
 10. Members of the public came forward generally in support of the application. The adjoining property owners indicated that they have worked with the management and no parking issues have occurred. Concerns were raised about parking on both sides of 7th Street and the issue would be brought before the Governing body to look into the matter

CONCLUSIONS OF LAW

WHEREAS, the Board determined that the Applicant's Major Site Plan pursuant to *N.J.S.A. 40:55D-46* and *N.J.S.A. 40:55D-50* were found to be sufficient as to style and design, and the Board approved the Applicant's request; and

WHEREAS, the need for the parking variance whereby 71 spaces are required and 44 spaces are provided is due to conditions of the lot which constituted a hardship in accordance with *N.J.S.A. 40:55D-70 (c)(1)*; and

WHEREAS, the existing Front yard setback variances on Bayview Avenue and 7th Street are existing non-conformities that cannot be changed. The existing conditions of the lot constituted a hardship in accordance with *N.J.S.A. 40:55D-70 (c)(1)*; and

WHEREAS, there will be no substantial negative impact on the surrounding property owners; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Barnegat Light.

NOW, THEREFORE, BE IT RESOLVED, by the Barnegat Light Planning Board, in the County of Ocean and State of New Jersey, on the 20th day of December 2023, upon a motion made by Washburn and seconded by Larson, that the application of Seventh Street, LLC be granted, subject to the following terms and conditions:

1. The Applicant shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of November 15, 2023.
2. The Applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance, if required.
3. The Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the Applicant shall comply with any requirements or conditions of such approvals or permits.
4. The Applicant must comply with the Development Fee Ordinance of the Borough of Barnegat Light, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.
5. The Applicant is required to provide for any and all of the regulatory approvals required by law including, but not limited to the Ocean County Planning Board.
6. The Applicant is required to post all necessary site performance bonds, inspection fees and all professional review fees in accordance with the Ordinance.
7. The Applicant will not be permitted to have music on the deck and no bar area will be permitted on the deck. All seating and service will stop at 9PM.
8. The Applicant will be given 60 days to amend its application and come back before the Board to reflect a roof type structure with lighting to be constructed over the proposed deck.
9. Publication of a notice of this decision will be published in the official newspaper of the Barnegat Light Planning Board at the cost of the Applicant.

ADOPTED this 20th day of December 2023

VOTE ON ROLL CALL:

IN FAVOR: Gutowski, Snieckus, Sulock, Washburn, Larson,

OPPOSED: None

ABSTAIN: Manookian

NOT- PRESENT: Mikuletzky, Mescolotto, Patterson

CERTIFICATION

It is hereby certified that the attached is a true copy of the Resolution for Application #2023-03, approved on November 15, 2023 and duly adopted as to form by the Barnegat Light Planning Board and memorialized at its regular meeting held on the December 20, 2023.

Chairman, James Gutowski
Borough of Barnegat Light
Planning Board

Secretary, Cecile Hodgson
Borough of Barnegat Light
Planning Board

Application 2023-03
Review of Architectural plans submitted by Seventh St. LLC with intention to amend
resolution 2023-06

James Raban, the attorney representing the applicant approached the board. He explained that the applicant was heard at the November 15th meeting and received approval for an extension of the open deck (application 2023-03, resolution 2023-6). There was also discussion at the last meeting about constructing a roof over the deck and the board asked that the applicant submit architectural drawings. The applicant submitted plans within the November 15th meeting and December 20th (current time) and provided proper notice and publication.

Raban explained that the deck will have a roof which will cover nearly the entire deck with a curtain that will be able to come down if it is windy or rainy. Raban called Robert Musnug to present his architectural drawings and he was sworn in. Mr. Musnug explained that it will be an open-air pavilion with a metal roof that will be married with the existing roof. Mr. Musnug stated that the curtains will be a plastic material that will have a zipper or snaps to open and close.

Mr. Raban concluded the presentation.

AT THIS TIME, Chairman Gutowski asked for a motion to go to the public.

MOTION: Washburn
SECOND: Manookian
ALL IN FAVOR

There were no comments from the public.

AT THIS TIME, Chairman Gutowski asked for a motion to close to the public.

MOTION: Manookian
SECOND: Larson
ALL IN FAVOR

AT THIS TIME, Jeffrey Washburn made a motion to accept an amended resolution with the supplemented information that Seventh St. LLC has provided.

MOTION: Washburn
SECOND: Manookian
VOTE: Gutowski, Snieckus, Sulock, Washburn, Larson, Manookian
ABSTAIN:
NAYS: None **ABSENT:** Mikuletzky, Mescolotto, Patterson

AT THIS TIME, Chairman Gutowski asked for a motion to adjourn.

MOTION: Manookian
SECOND: Washburn
ALL IN FAVOR