

**PLANNING BOARD OF ADJUSTMENT
BARNEGAT LIGHT
JANUARY 17, 2024**

THE PLANNING BOARD MEETING was called to order at 5:00pm by board secretary, Cecile Hodgson 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.

OATH OF OFFICE

AT THIS TIME, the oath of office was administered by Joe Coronato to Barry Mescolotto, Timothy Brindley, and Pete Snieckus.

NOMINATIONS FOR CHAIRPERSON

AT THIS TIME, the Board Attorney asked for nominations for Chairperson. A nomination was made by Mayor Larson, for Barry Mescolotto as Chairperson and seconded by Chris Patterson. No other nominations were forthcoming and nominations were closed

MOTION: Kirk Larson

SECOND: Chris Patterson

VOTE: AYES: Larson, Washburn, Mikuletzky, Manookian, Patterson, Sulock, Mescolotto

ABSTAIN:

NAYS: NONE ABSENT: NONE

NOMINATIONS FOR VICE CHAIRPERSON

AT THIS TIME, A nomination made by Kirk Larson for Richard Manookian as Vice Chairperson and seconded by Jeffrey Washburn. No other nominations were forthcoming and nominations were closed.

MOTION: Kirk Larson

SECOND: Jeffrey Washburn

VOTE: AYES: Larson, Washburn, Mikuletzky, Patterson, Sulock, Mescolotto

ABSTAIN: Manookian

NAYS: NONE ABSENT: NONE

MINUTES OF DECEMBER 20, 2023 MEETING

AT THIS TIME, Chairman Mescolotto asked for a motion to approve the minutes of the December 20, 2023 meeting.

MOTION: Washburn
SECOND: Larson
VOTE: Larson, Washburn, Manookian, Sulock,
ABSTAIN: Mikuletzky, Mescolotto, Patterson
NAYS: NONE ABSENT: NONE

AT THIS TIME, Chairman Mescolotto asked for a motion to memorialize amended resolution 2023-06

MOTION: Larson
SECOND: Manookian
VOTE: Larson, Washburn, Manookian, Sulock,
ABSTAIN: Mikuletzky, Mescolotto, Patterson
NAYS: NONE ABSENT: NONE

**AMENDED 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 amended 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 included the amended architectural plan 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 17th day of January 2024, 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. Applicant Amended its application on December 20, 2023 to include a roofing structure of 75% of the deck area. The Applicant is requesting the following variances and waivers:

A. The following are variances being requested and no new variances requested following Applicants amended architectural plans :

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:
- A. Site Plan, One (1) sheet prepared by Horn, Tyson & Yoder, Inc., signed by James D. Brzozowski, PE, PP and dated 8/07/2023
 - B. Architectural Plans, four (4) sheets, prepared by Musgnug & Associates, Architects, signed by Robert P. Musgnug, AI and dated 12/05/2023
4. During the public hearing held on November 15, 2023 and December 20, 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.
 - B. Updated Review letter dated December 13, 2023, by the Planning Board Engineer, Frank Little, P.E., P.P., C.M.E. including Architectural plans.
5. The Planning Board has received no review letters/memos from the Barnegat Light Officials.
6. During the public hearing on November 15, 2023, there were no new exhibits marked into evidence.
7. During the public hearing on December 20, 2023, the following exhibits were marked:
- A. Exhibit A-1- Colored rendering of proposed deck with roof.
8. 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.
 - C. On December 2023, Mr. Raban that the Applicant was amending the application to include a roof for the patio/deck area.

9. On November 15, 2023, 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.

10. On November 15, 2023, 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 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

11. On December 20, 2023, based upon the sworn testimony of Robert P. Musgnug, AI, the Board made the following findings of fact:
- A. Mr. Musgnug marked Exhibit A-1 into evidence.
 - B. The Applicant is proposing a roof to cover 75% of the outdoor seating.
 - C. There will be no permanent enclosure around the outside of the deck.
 - D. Applicant will provide canvas coverings around the outside of the covered deck area.
 - E. The canvas sides are attached via zipper or snaps, are removable, and not permanent.
 - F. The roof structure will be wooded, match the existing roofing and style of building, and the posts will be covered in vinyl.
 - G. Electricity will be provided with lighting and fans.
 - H. Access to the area will be as previously explained, from one staircase from the parking area or from the interior of the building.
 - I. The uncovered area will be approximately eight foot in depth and fit approximately five or six tables.
 - J. The roofing section will have a gutter system around the perimeter.
 - K. Applicant agreed to come back in front of the board should there be any permanent enclosure the roof section of the deck requested.

12. 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 15th day of November 2023, upon a motion made by Jeffrey Washburn and seconded by Mayor Kirk 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. Applicant will not exceed the 213 seat capacity of the restaurant.
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 17th day of January 2024.

VOTE ON ROLL CALL:

IN FAVOR: Larson, Washburn, Manookian, Sulock,
OPPOSED: None
NOT- PRESENT: None
ABSTAIN: Mikuletzky, Mescolotto, Patterson

AT THIS TIME, Chairman Mescolotto asked for a motion to memorialize resolution 2024-01

MOTION: Manookian

SECOND: Mikuletzky

VOTE: Larson, Washburn, Manookian, Sulock, Mikuletzky, Mescolotto, Patterson

ABSTAIN:

NAYS: NONE ABSENT: NONE

RESOLUTION 2024-01

RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF BARNEGAT LIGHT, COUNTY OF OCEAN, STATE OF NEW JERSEY, SETTING THE TIME, DATE, PLACE AND AD PLACEMENT OF THE MEETINGS

WHEREAS, the Planning Board of the Borough of Barnegat Light is a public body, which convenes regular meetings for the purpose of action on applications submitted to it pursuant to N.J.S.A. 40:55D-1, et. seq., and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-6, et. seq. mandates that the public be advised of all regular meeting dates; and

WHEREAS, the Board proposes to conduct regular meetings on the dates hereinafter specified with each meeting to be convened at 5:00pm at the Borough of Barnegat Light 10 East 7th St., Barnegat Light, NJ 08006.

NOW THEREFORE BE IT RESOLVED, this 17TH day of January 2024 as follows:

1. The board shall meet on the following dates:
February 21, March 20, April 17, May 15, June 19,
July 17, August 21, September 18, October 16,
November 20, December 18, 2024 and Organization on January 15, 2025.

The Meetings will take place at 5:00pm on the above-mentioned dates, at the Borough of Barnegat Light, 10 East 7th St., Barnegat Light, NJ.

2. The notice shall be:

Prominently posted in at least one (1) place reserved for similar announcements. Mailed, telephoned or hand delivered to at least two (2) newspapers, Asbury Park Press and Beach Haven Times designated by the public body to receive such notices because they have the greatest likelihood of informing the public within the area of jurisdiction of the public body of such meetings. Filed with the Borough Clerk as well.

3. The notice mentioned in paragraph two (2) hereof is to be given within ten (10) days of the date.

4. Notwithstanding anything contained herein to the contrary, the Board may call special meetings upon giving at least 48 hours advance notice in the manner specified in paragraph two of this resolution.

DATED: JANUARY 17, 2024

MOTION: Manookian

SECOND: Mikuletzky

VOTE: AYES: Larson, Washburn, Mikuletzky, Mescolotto, Manookian, Patterson, Sulock

NAYS: None

ABSTAIN: None

ABSENT: None

AT THIS TIME, Chairman Mescolotto asked for a motion to memorialize resolution 2024-02

MOTION: Larson

SECOND: Washburn

VOTE: Larson, Washburn, Manookian, Sulock, Mikuletzky, Mescolotto, Patterson

ABSTAIN:

NAYS: NONE ABSENT: NONE

RESOLUTION 2024-02

**RESOLUTION OF THE BOROUGH OF BARNEGAT LIGHT,
COUNTY OF OCEAN, STATE OF NEW JERSEY,
AUTHORIZING THE AWARDING OF A PROFESSIONAL
SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING
OR FAIR & OPEN ADVERTISING
- PLANNING BOARD ATTORNEY**

WHEREAS, there exists a need for the services of a Planning Board Attorney for a one-year term; and

WHEREAS, the Borough of Barnegat Light has determined that its professional services contractors do not make reportable political contributions to municipal candidates so as to otherwise require fair and open contract advertising pursuant to the provisions of NJSA 19:44A-20.5; and

WHEREAS, that the value of this contract will not exceed the amount that the Borough Chief Financial Officer has determined and certified in writing; and

WHEREAS, Joseph D. Coronato Sr. Esquire of Coronato Law is qualified to hold the position of Planning Board Attorney in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a), and the NJ Campaign Contributions & Expenditures Reporting Act, NJSA 19:44A-20.5.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Barnegat Light, in the County of Ocean, State of New Jersey, as follows:

1. Joseph D. Coronato Sr. Esquire of Coronato Law is hereby appointed Planning Board Attorney for the Borough of Barnegat Light for the year 2024. This contract for professional services is awarded without competitive bidding or advertising under the provisions of the Local Public Contracts Law and the NJ Campaign Contributions & Expenditures Reporting Act.

2. That the Determination of Value shall be placed on file with this resolution.

3. That a certificate of availability of funds executed by the Chief Financial Officer is annexed hereto. The following are the line-item appropriations or ordinances which constitute the availability of funds for this contract: Temporary Budget Planning Board O and E

4. That a Notice of Contract Award shall be published in accordance with NJSA 40A:11-5(1)(a).

5. That certified copies of this resolution shall be forwarded to Joseph Coronato, Esquire and the Borough Treasurer.

DATED: JANUARY 17, 2024

MOTION: Larson

SECOND: Washburn

VOTE: AYES: Larson, Washburn, Mikuletzky, Mescolotto, Manookian, Patterson, Sulock

NAYS: None

ABSTAIN: None

ABSENT: None

AT THIS TIME, Chairman Mescolotto asked for a motion to memorialize resolution 2024-03

MOTION: Washburn

SECOND: Patterson

VOTE: Larson, Washburn, Manookian, Sulock, Mikuletzky, Mescolotto, Patterson

ABSTAIN:

RESOLUTION 2024-03

RESOLUTION OF THE BOROUGH OF BARNEGAT LIGHT, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE AWARDING OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING OR FAIR & OPEN ADVERTISING -PLANNING BOARD ENGINEER & PROFESSIONAL PLANNER

WHEREAS, there exists a need for the services of a Planning Board Engineer and Professional Planner for a one-year term; and

WHEREAS, the Borough of Barnegat Light has determined that its professional services contractors do not make reportable political contributions to municipal candidates so as to otherwise require fair and open contract advertising pursuant to the provisions of NJSA 19:44A-20.5; and

WHEREAS, that the value of this contract will not exceed the amount that the Borough Chief Financial Officer has determined and certified in writing; and

WHEREAS, Frank Little, Jr. of the firm Owen Little & Associates is qualified to hold the position of Planning Board Engineer and Professional Planner in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a), and the NJ Campaign Contributions & Expenditures Reporting Act, NJSA 19:44A-20.5.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Barnegat Light, in the County of Ocean, State of New Jersey, as follows:

1. That Frank Little, Jr., of the firm Owen Little & Associates is hereby appointed Planning Board Engineer and Professional Planner for the Borough of Barnegat Light for the year 2024. This contract for professional services is awarded without competitive bidding or advertising under the provisions of the Local Public Contracts Law and the NJ Campaign Contributions &

Expenditures Reporting Act.

2. That the Determination of Value shall be placed on file with this resolution.
3. That a certificate of availability of funds executed by the Chief Financial Officer is annexed hereto. The following are the line items appropriations or ordinances which constitute the availability of funds for this contract:

Temporary Budget Engineering Services O and E
4. That a Notice of Contract Award shall be published in accordance with NJSA 40A:11-5(1)(a).
5. That certified copies of this resolution shall be forwarded to Frank Little, Jr., and the Borough Treasurer.

DATED: JANUARY 17, 2024

MOTION: Washburn

SECOND: Patterson

VOTE: AYES: Larson, Washburn, Mikuletzky, Mescolotto, Manookian, Patterson, Sulock

NAYS: None

ABSTAIN: None

ABSENT: None

NEW BUSINESS

Mr. Coronato made the board aware of a letter issued by the state. He explained that the state is going to come out with a redevelopment plan in the month of April and at this time the board should not be concerned until more information is provided. The letter has been filed at the Borough Hall.

Mr. Coronato explained that he would like businesses coming before the board to submit a written accurate statement of operations, which would at the very least entail the days of operation, the number of employees needed and the hours of operation. He explained that in some cases a workshop meeting should be allowed, wherein the professionals (Engineer, town attorney and zoning officer) would review an application to make a determination on whether or not the applicant would be required to formally come before the planning board. He explained that it would prevent the applicant/ business owner from exhausting unnecessary resources such as time and money. Mr. Coronato explained that this work shop meeting would only occur if there was a grey area that the zoning officer (Washburn) was unsure of and felt the need to consult with the professionals on whether or not the proposal should be brought before the board. Washburn emphasized that he would keep all details associated with these types of situations on file so that they may be referenceable. The board was overall supportive of this idea.

AT THIS TIME, Chairman Mescolotto asked for a motion to open to the public.

MOTION: Larson

SECOND: Washburn

ALL IN FAVOR

There were no comments from the public.

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

MOTION: Larson

SECOND: Manookian

ALL IN FAVOR

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

MOTION: Manookian

SECOND: Larsone

ALL IN FAVOR

Cecile Hodgson
Planning Board Secretary