

**RESOLUTION  
PLANNING BOARD  
CITY OF BAYONNE**

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**APPLICANT:** KHIDER AND BLANCHE JIJI

**APPLICATION NO.:** P-16-035

**PREMISES:** 418 Broadway  
Block 226, Lot 36

**WHEREAS, KHIDER AND BLANCHE JIJI (Applicants)** have applied to the Planning Board of the City of Bayonne for preliminary and final major site plan approval and bulk variance relief to allow the conversion of the third floor of an existing building into two (2) dwelling units in property located at 418 Broadway in City Block 226, Lot 36; and

**WHEREAS,** the applicants have submitted proof that notification by mail or personal services, at least ten (10) days prior to the date set forth for public hearing to property owners within 200 feet from the extreme limits of the property, in accordance with the Zoning Ordinance of the City of Bayonne as amended and supplemented in accordance with N.J.S.A. 40:55D-1 et. seq., has been completed and that the application has been deemed complete for review; and

**WHEREAS,** the applicants, through their attorney, Stephen S. Rose, Esq., appeared before the Planning Board at a regular meeting held on November 10, 2016; and

**WHEREAS,** David JiJi, the property owner's son and property manager and Alan Feld, AIA, PP, provided testimony on behalf of this application; and

**WHEREAS,** the applicants submitted evidence that they have made the application in conformity with the City of Bayonne Ordinance and that it has complied with all the procedural requirements of the City of Bayonne Ordinance, including the payment of fees; and

**WHEREAS**, after carefully considering the evidence and proofs, testimony of the applicants and the arguments of counsel presented at the hearing in this matter, the Board has made the following findings of fact and conclusions of law:

1. The Planning Board has the jurisdiction to act upon this application with a majority vote required for approval of all matters; and
2. The proposed project is an existing three- (3) story mixed-use masonry structure that contains ground floor commercial use, second floor offices and one (1) residential apartment on the third floor. The applicants is seeking preliminary and final major site plan approval and bulk variance relief to convert the existing third floor into two (2) residential dwelling units. The applicants' proposal will reconfigure the building's third floor to accommodate a three (3) bedroom unit and a two (2) bedroom unit. No other improvements are proposed as part of this application; and
3. The subject property is located in the Central Business District (CBD) as well as the Transit Development Overlay District (TDO) where mixed-use developments with above ground floor multi-family dwellings are permitted. The application requires major site plan approval for a change in use, bulk variance for parking space requirements as well as a street tree; and
4. David Jiji, the owner's son and property manager, testified that he is familiar with the building and he operated the Network Café, the commercial use on the first floor. He discussed the existing third floor having an apartment and a full kitchen and bath on the opposite side where bedrooms can be added and the fire escape extended; and
5. Alan Feld, AIA, PP, described the various drawings submitted as part of the application prepared by his firm. He described the project and property as it is now and how the applicants propose converting the third floor into two (2) apartments. He testified that all work being done was interior. Mr. Feld indicated that there was no parking available on site to provide for same. The applicants inability to provide same is mitigated by the mass transit options and close proximity to light rail and parking lots; and
6. Mr. Feld, in his testimony indicated that the variance for parking is justified from a planning perspective and the proposed project implements the Master Plan and Zoning Ordinance recommendations as it does not alter the character of the neighborhood nor is it detrimental to the public health, welfare and safety. It was Mr. Feld's position that the applicants satisfied the Zone Plan and the granting of

the variances would not impair the intent and purpose of the Zone Plan and Zoning Ordinance ; and

7. There were no members of the general public present at the hearing; and
8. The Board makes the following findings and conclusions with respect to this application:
  - a. This matter is a request for preliminary and final major site plan approval, for interior alterations of an existing structure to accommodate one (1) additional dwelling unit and bulk variance relief for parking; and
  - b. The Board has considered the testimony presented on behalf of the applicants. In addition, the Board has reviewed the City of Bayonne Zoning Ordinance, Master Plan and all materials marked into evidence which are incorporated herein by reference; and
  - c. The Board has the authority to interpret the provisions of the Zoning Ordinance but an interpretation should not be used to change the plain meaning and intent of the Ordinance as enacted by the City Council; and
  - d. The Board has been called upon to consider the testimony presented by experts. In determining the issues presented, the Board has considered and evaluated the testimony presented by those experts, observed their responses to the questions and the candidness of their answers and weighed the overall objectivity of the experts on the issues; and
  - e. The Board finds that the applicants have met their burden of proof in support of granting the application for site plan approval. The variances required with respect to the design of the site plan are granted as the applicants have worked substantially within the conditions of the property as it presently exists; and
  - f. The Board also finds that the application, as presented, will not substantially impair the intent and purpose of the City Zone Plan and Zoning Ordinance. The Zoning Ordinance and Master Plan permit this residential building and the variances requested are in keeping with the use; and
  - g. Further, the Board finds that by using prudent zoning and planning principles, the request for a variance will not affect the existing neighborhood or the community as a whole. The Planning Board hereby determines that the overall objectives of sound and prudent zoning and

planning principles permit the provision of this type of use and warrant the granting of the variances as requested in the application; and

- h. The benefits of granting a parking variance, in terms of safety and promoting mixed-use residential buildings outweigh potential negatives of not providing off-street parking spots. The potential negative is further mitigated by the proximity of mass transit and by the fact that the units are within walking distance of light rail. Strict application of the parking and open space requirements at this project are impractical; and
- i. The Planning Board hereby determines the applicants have met their burden of proof to the satisfaction of the Planning Board for site plan approval and ancillary variances for the project as proposed. The Planning Board also determines that the sound and prudent zoning and planning principles and the variances required for the immediate neighborhood outweigh the detriment to the neighborhood and the variances would in fact advance the purpose of the City Zoning Ordinance, Master Plan and Municipal Land Use Law; and
- j. The site plan conforms with the requirements of the Ordinance subject to compliance of any other conditions listed on Schedule A attached hereto and made a part hereof.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Board of the City of Bayonne hereby **GRANTS KHIDER AND BLANCHE JIJI**, (applicants) preliminary and final major site plan approval and bulk variance relief to allow the conversion of the third floor of an existing building into two (2) dwelling units on property located at 418 Broadway in City Block 226, Lot 36, subject to the approval of all pertinent federal, state, county and municipal rules and regulations, statutes, codes and ordinances and other conditions listed on Schedule A attached hereto; and

**BE IT FURTHER RESOLVED**, that the Chairman of the Planning Board has hereby authorized his signature to this Resolution granting preliminary and final major site plan approval and the Land Use Administrator is authorized to advertise the action taken by way of Resolution in a local newspaper; and

**BE IT FURTHER RESOLVED**, that the Land Use Administrator is authorized to send copies of this Resolution to the following City Officials: City Clerk, Construction Official, Zoning Officer, Fire Sub-Code Official, City Planner and City Engineer.

**RECORDED VOTE:**

<u>Commissioners</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Not Voting</u>	<u>Not Present</u>
Theodore Garelick	[ ]	[ ]	[ ]	[ ]	[X]
Karen Fiermonte	[X]	[ ]	[ ]	[ ]	[ ]
Laura Marsella	[X]	[ ]	[ ]	[ ]	[ ]
Juan Perez	[X]	[ ]	[ ]	[ ]	[ ]
Terrence Malloy	[ ]	[ ]	[ ]	[ ]	[X]
Michael Quintela	[ ]	[ ]	[ ]	[ ]	[X]
Ramy Lawandy	[X]	[ ]	[ ]	[ ]	[ ]
George Becker	[X]	[ ]	[ ]	[ ]	[ ]
James Davis, Mayor	[ ]	[ ]	[ ]	[ ]	[X]
Vincent Virga (Mayoral Designee)	[X]	[ ]	[ ]	[ ]	[ ]

WHEREAS, the application having received six (6) affirmative votes, is hereby

**APPROVED.**

The above Resolution was adopted by the Planning Board of the City of Bayonne at a regular meeting held on December 13, 2016.

  
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THEODORE GARELICK  
Chairperson

RNC/lg

**SCHEDULE "A"**  
**Khider and Blanche JiJi**  
**P-16-035**

1. The applicants shall comply with the recommendations as reflected in the minutes of the proceedings before the Board on this application; and
2. The applicants shall maintain the property, including all landscaping and parking in accordance with the approved plan; and
3. The applicants shall establish and maintain an escrow account with the City of Bayonne to pay for the professional review and inspection fees related to this application and construction required in conjunction therewith; and
4. Approval of this application is further conditioned on full compliance with all applicable Federal, State and Local Ordinances, rules and regulations as well as any and all requirements of the New Jersey Department of Environmental Protection with specific emphasis on any requirements of a storm water management plan for same and all required permits and approvals and certificates. Copies of all other permits; and
5. The applicants shall be bound to comply with the representations made before this Board by the applicants, their counsel and experts at the public hearing; and, the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of approval; and
6. Approval of this application if further conditioned on the payment of all taxes, fees and required escrow deposits to the City of Bayonne. The applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days from the date of the adoption of this resolution; and
7. All documents required to be prepared by the applicants by virtue of the terms or provisions of any condition set forth in this resolution shall, before execution, be submitted to and approved by the Board attorney and engineer; and
8. If any other governmental agency grants a waiver or variance of a regulation, then this Board shall have the right to review that issue as it relates to this approval granted by this Board and modify to amend same; and
9. The applicants shall start the construction in accordance with the plans as approved and herewith submitted, within twelve (12) months from the date of publication of the legal notice of the Board's decision in this application.
10. This application is subject to City Council approval for a fire escape in the right-of-way.

11. The applicant shall contribute to the City Tree Fund in lieu of planting a tree on site.