ZONING BOARD OF ADJUSTMENT

REGULAR MEETING MINUTES

DECEMBER 18, 2023

A regular in-person meeting of the Zoning Board of Adjustment was held on Monday, December 18, 2023, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Secretary Lombari called the meeting to order at 6:07 p.m. and led all in the Pledge of Allegiance to the Flag. Chairman Adams declared a quorum and advised that the Board has complied with the Open Public Meetings Act/Sunshine Law.

Commissioner Elgarhi called the roll. Present at the meeting were Secretary Lombari, Commissioners Pineiro, DeRos, Contey, Frain, Elgarhi, and Garvey. Chairman Adams, Vice-Chairman DiLullo, Commissioners Sisk-Galvin, and Lubach were not present.

Richard Campisano asked for a motion to elect a President Pro Tem and a Secretary for tonight's meeting due to absences of some of the Commissioners. Commissioner Pineiro made the motion to appoint Secretary Louis Lombari as President Pro Tem and Commissioner Islam Elgarhi as Secretary. Commissioner Elgarhi seconded the motion.

Also present were Richard Campisano, Esq., Board Counsel, Robert J. Russo, PP, City Engineer, James Clavelli, PP, consulting City Planner, and Alicia Losonczy, Zoning Board of Adjustment Administrator.

Communications:

- Letter dated November 2, 2023 from Paul Weeks, Esq. with regard to 321 BROADWAY BAYONNE, LLC – Site: 321 Broadway; Block 252, Lot 19 requesting an extension until September 19, 2024 ***(Z-22-002)***
    - Commissioner Lombari made the motion to approve the extension until September 19, 2024. Commissioner Elgarhi seconded the motion. A unanimous vote of eligible Commissioners followed.

Adoption of Minutes:

Mr. Campisano called for the adoption of the minutes from the November 20, 2023 regular meeting. Commissioner Pineiro made the motion to adopt the minutes and Commissioner DeRos seconded the motion. A unanimous vote of eligible members followed.

Board Reorganization

- **Election of officers (nominated and unanimously voted in):**
    - Clifford Adams - Chairman

Commissioner Lombari made the motion for this nomination and Commissioner DeRos seconded the motion.

- Nicholas DiLullo - Vice-Chairman

Commissioner Lombari made the motion for this nomination and Commissioner Pineiro seconded the motion.

- Louis Lombari - Secretary

Commissioner DeRos made the motion for this nomination and Commissioner Elgarhi seconded the motion.

- **Appointment of Board Personnel**
    - Richard N. Campisano, Esq., Board Attorney
    - Alicia Losonczy, Board Administrator
    - Suzanne Mack, P.P., City Planner
    - Susan Bischoff, Certified Shorthand Reporter
    - CME, Consulting City Engineer
    - Matrix New World Engineering, Consulting City Engineer
    - Clarke Caton Hintz, Consulting City Planner

Commissioner Lombari made the motion for this appointment and Commissioner DeRos seconded the motion. A unanimous vote of eligible Commissioners followed.

- **Adoption of 2023 Calendar**

The following dates for the regular meetings to be held in 2023 were read by Board Counsel Richard Campisano and unanimously adopted:

January 22, 2024 (Alternate date)
February 12, 2024 (Alternate date)
March 18, 2024
April 15, 2024
May 20, 2024
June 17, 2024
July 15, 2024
August 19, 2024
September 16, 2024
October 21, 2024
November 18, 2024
December 16, 2024

Commissioner DeRos made the motion to adopt the 2023 calendar of meeting dates and Commissioner Lombari seconded the motion. A unanimous vote followed.

Item VII:

Z-23-010 – 91 EAST 22, LLC – Site: 91 East 22nd Street; Block 449, Lot 10 ***[The applicant seeks major site plan approval, a d(2) use variance, and bulk variance relief to allow the construction of a second-story addition for commercial use (expansion of Everything Bagel Shop).]***

Paul N. Weeks, Esq., attorney for applicant, gave an overview of the application and asked the Board to accept his exhibits.

Witness #1:

Selena Djencic, Owner of the shop, was sworn in and testified with regard to the application. She explained that the business was started by her husband and herself nearly five years ago and they are looking to expand their business with the expansion of the area. She explained the expansion would result in an increase in two to three more employees. Ms. Djencic testified that there would be approximately ten tables placed upstairs with approximately four seats at each table. She stated that the hours of operation would expand to 6:30 am – 9:00 pm on Mondays through Fridays and 6:30 am – 6:00 pm on Saturdays and Sundays. Since most of her current customers are grab-and-go style, this would give them an opportunity to bring their food upstairs and enjoy it there.

Board Questions:

Commissioners Lombari, Elgarhi, Contey, DeRos, and Pineiro questioned Ms. Djencic. Mr. Russo and Mr. Clavelli questioned Ms. Djencic.

Audience questions:

There were no questions from the audience.

Statements/Comments:

There were no comments from the audience.

Witness #2:

Steven Kawalek, Architect licensed in the state of New Jersey, was sworn in and accepted by the Board as an expert witness. He described the existing facility of Everything Bagel Shop located in the TDO – Transit Development Overlay Zone and the two-story, two-family residential structure in the rear. Mr. Kawalek explained the proposed development in great detail including the new façade and interior alterations as well as upgrades. He advised that signage would conform to the regulations allowed for commercial signage in the ordinance. Mr. Kawalek felt that an approval could be granted in accordance with the Master Plan and asked the Board to vote favorably upon this proposal.

Board Questions:

Chairman Pro Tem Lombari and Commissioner DeRos questioned Mr. Kawalek.

Audience questions:

There were no questions from the audience.

Closing Statement from Attorney:

Mr. Weeks summed up the application and requested the Board vote favorably upon this application.

Statements/Comments:

There were no comments from the audience.

Closed Caucus:

Chairman Pro Tem Lombari stated that he felt this is an improvement to the building and the neighborhood and does not feel any negative impact on the neighborhood and feels this application can be approved. His fellow Commissioners concurred.

Motion:

Commissioner DeRos made a motion to approve the application subject to any and all conditions spread across the record. Commissioner Pineiro seconded the motion.

The following vote to approve the application was taken at the hearing on December 18, 2023:
RECORDED VOTE:

Commissioners	*Aye*	*Nay*	*Abstain*	*Recuse*	*Absent*	*Not voting*
Clifford Adams	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Nicholas DiLullo	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Louis Lombari	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Joseph Pineiro	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Arrigo DeRos, Jr.	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Cindi Sisk-Galvin	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Susan Contey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Ian Garvey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Edward Lubach, Jr.	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Thomas Frain	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Islam Elgarhi	[X]	[ ]	[ ]	[ ]	[ ]	[ ]

<u>Item VIII</u>:

Z-23-012 – CONNOR BRACKEN – Site: 12 Sisson Court; Block 248, Lot 24 *[The applicant is proposing to construct a one-family house on the currently vacant parcel, but variance relief is requested for lot area and building height.]*

Paul N. Weeks, Esq., attorney for applicant, gave an overview of the application and asked the Board to accept his exhibits.

<u>Witness #1:</u>

Steven Kawalek, Architect licensed in the state of New Jersey, was sworn in and accepted by the Board as an expert witness. He described the existing vacant lot and explained the nature of the application. Mr. Kawalek testified that the parcel is located in the R-2 Zone and three variances are being sought for: lo width, lot area, and height/stories. He advised the new single-family dwelling will provide parking unlike any of the other homes on the block. Mr. Kawalek said that the positive criteria outweighed the negative for this proposal.

<u>Board Questions</u>:

Chairperson Pro Tem Lombari questioned Mr. Kawalek.

<u>Audience questions</u>:

There were no questions from the audience.

<u>Statements/Comments</u>:

There were no comments from the audience.

<u>Closing Statement from Attorney:</u>

Mr. Weeks summed up the application and requested the Board vote favorably upon this application.

Statements/Comments:

There were no comments from the audience.

Closed Caucus:

Chairman Pro Tem Lombari stated that he felt this is an improvement to the area and feels this application can be approved. His fellow Commissioners concurred.

Motion:

Commissioner DeRos made a motion to approve the application subject to any and all conditions spread across the record. Commissioner Elgarhi seconded the motion.

The following vote to approve the application was taken at the hearing on December 18, 2023:
RECORDED VOTE:

Commissioners	*Aye*	*Nay*	*Abstain*	*Recuse*	*Absent*	*Not voting*
Clifford Adams	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Nicholas DiLullo	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Louis Lombari	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Joseph Pineiro	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Arrigo DeRos, Jr.	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Cindi Sisk-Galvin	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Susan Contey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Ian Garvey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Edward Lubach, Jr.	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Thomas Frain	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Islam Elgarhi	[X]	[ ]	[ ]	[ ]	[ ]	[ ]

Item IX:

Z-23-015 – NEIL REYNOLDS – Site: 69 Kennedy Boulevard; Block 346, Lot 17 ***[The applicant is seeking preliminary and final major site plan approval to convert the existing ground floor commercial space into a two-bedroom residential apartment; bulk variance relief is required.]***

Paul N. Weeks, Esq., attorney for applicant, gave an overview of the application and asked the Board to accept his exhibits.

Witness #1:

Steven Kawalek, Architect licensed in the state of New Jersey, was sworn in and accepted by the Board as an expert witness. He described the existing area as the former Foley's Tavern and the repurposing of the ground floor commercial unit into a residential unit. Mr. Kawalek testified that the parcel is located in the R-2 Zone and variances are being sought. He described the upgrades to the building and area that the applicant is proposing to make. Mr. Kawalek advised that it would not produce any negativity against the public good and asked the Board to vote favorably on this project.

Board Questions:

Chairperson Pro Tem Lombari and Commissioner DeRos questioned Mr. Kawalek.

Audience questions:

There were no questions from the audience.

Closing Statement from Attorney:

Mr. Weeks summed up the application and requested the Board vote favorably.

Statements/Comments:

There were no comments from the audience.

Closed Caucus:

Chairman Pro Tem Lombari stated that he felt this is an improvement to the area and his fellow Commissioners concurred.

Motion:

Commissioner DeRos made a motion to approve the application subject to any and all conditions spread across the record. Commissioner Pineiro seconded the motion.

The following vote to approve the application was taken at the hearing on December 18, 2023:

RECORDED VOTE:

Commissioners	*Aye*	*Nay*	*Abstain*	*Recuse*	*Absent*	*Not voting*
Clifford Adams	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Nicholas DiLullo	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Louis Lombari	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Joseph Pineiro	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Arrigo DeRos, Jr.	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Cindi Sisk-Galvin	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Susan Contey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Ian Garvey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Edward Lubach, Jr.	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Thomas Frain	[ ]	[X]	[ ]	[ ]	[ ]	[ ]
Islam Elgarhi	[X]	[ ]	[ ]	[ ]	[ ]	[ ]

Adoption of Resolutions:

- **Z-23-011 – USNJREINVESTORS, LLC – Site: 482 Kennedy Boulevard; Block 230, Lot 45**
    - Commissioner DeRos made a motion to approve the resolution and Commissioner Elgarhi seconded the motion.

The following vote to memorialize the resolution was taken at the hearing on December 18, 2023:
RECORDED VOTE:

Commissioners	*Aye*	*Nay*	*Abstain*	*Recuse*	*Absent*	*Not voting*
Clifford Adams	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Nicholas DiLullo	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Louis Lombari	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Joseph Pineiro	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Arrigo DeRos, Jr.	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Cindi Sisk-Galvin	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Susan Contey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Ian Garvey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Edward Lubach, Jr.	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Thomas Frain	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Islam Elgarhi	[X]	[ ]	[ ]	[ ]	[ ]	[ ]

- **Z-23-003 – 393 AVENUE C, LLC – Site: 393 Avenue C; Block 238, Lot 26**

    - Commissioner DeRos made a motion to approve the resolution and Commissioner Pineiro seconded the motion.

The following vote to memorialize the resolution was taken at the hearing on December 18, 2023:
RECORDED VOTE:

Commissioners	*Aye*	*Nay*	*Abstain*	*Recuse*	*Absent*	*Not voting*
Clifford Adams	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Nicholas DiLullo	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Louis Lombari	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Joseph Pineiro	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Arrigo DeRos, Jr.	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Cindi Sisk-Galvin	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Susan Contey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Ian Garvey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Edward Lubach, Jr.	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Thomas Frain	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Islam Elgarhi	[X]	[ ]	[ ]	[ ]	[ ]	[ ]

- **Z-22-002 – 321 BROADWAY BAYONNE, LLC – Site: 321 Broadway; Block 252, Lot 19 *(extension)***

    - Commissioner DeRos made a motion to approve the resolution and Commissioner Lombari seconded the motion.

The following vote to memorialize the resolution was taken at the hearing on December 18, 2023:
RECORDED VOTE:

Commissioners	*Aye*	*Nay*	*Abstain*	*Recuse*	*Absent*	*Not voting*
Clifford Adams	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Nicholas DiLullo	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Louis Lombari	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Joseph Pineiro	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Arrigo DeRos, Jr.	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Cindi Sisk-Galvin	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Susan Contey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Ian Garvey	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Edward Lubach, Jr.	[ ]	[ ]	[ ]	[ ]	[X]	[ ]
Thomas Frain	[X]	[ ]	[ ]	[ ]	[ ]	[ ]
Islam Elgarhi	[X]	[ ]	[ ]	[ ]	[ ]	[ ]

Item VIII: Executive Session:

As needed to discuss litigation, personnel or other matters.

The meeting adjourned at 7:15 pm. Certified Shorthand Reporter Susan Bischoff, of 449 Columbia Boulevard, Wood-Ridge, NJ 07075, took a transcript of the meeting.

/akl