

**BOROUGH OF RIVER EDGE MUNICIPAL LAND USE BOARD**

**RESOLUTION GRANTING SITE PLAN APPROVAL ON  
A FOOD HANDLER'S LICENSE TO HYE ANNIE LEE FOR  
830 KINDERKAMACK ROAD  
BLOCK 212, LOT 23  
RIVER EDGE, NEW JERSEY**

**WHEREAS**, the Municipal Land Use Board of the Borough of River Edge is a duly constituted body as authorized by statute with responsibility to supervise and be concerned with the orderly development and planning of the Borough, as authorized by the statutes and ordinances made and provided; and

**WHEREAS**, Hye Annie Lee (hereinafter referred to as the "Applicant") has filed an application with the Municipal Land Use Board of the Borough of River Edge (the "Board") for property known as Block 212, Lot 23 on the tax map of the Borough of River Edge, located at 830 Kinderkamack Road (the "Property"), for site plan approval on a food handler's license; and

**WHEREAS**, KB Wonderland, LLC owns the Property and authorized the Applicant to file this application before the Board; and

**WHEREAS**, the Applicant is a tenant that proposes to operate a retail pickling business and store on the Property; and

**WHEREAS**, the Board deemed the application complete on October 7, 2020 and a public hearing was also conducted on October 7, 2020 via Zoom video conference; and

**WHEREAS**, the Applicant was not represented by counsel; and

**WHEREAS**, Hye Annie Lee ("Ms. Lee"), 1021 Edgewood Lane, Fort Lee, New Jersey 07024, was duly sworn and provided testimony in support of the application; and

**WHEREAS**, the public was given notice of the application and had an opportunity to participate in the hearing and no one appeared to be heard; and

**WHEREAS**, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the Property for the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of River Edge and provided proof of service of such notice in accordance with the Zoning Ordinance of the Borough of River Edge, as amended and supplemented, and the Municipal Land Use Law (the öMLULö), N.J.S.A. 40:55D-1 to -163; and

**WHEREAS**, the Applicant submitted proof that a copy of said notifications were published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of River Edge in accordance with the Zoning Ordinance of the Borough of River Edge as amended and supplemented, and the MLUL; and

**WHEREAS**, all jurisdictional requirements of the applicable state statutes and local ordinance were met; and

**WHEREAS**, pursuant to §350-4(e) of the Code of the Borough of River Edge, site plan approval shall be required for any building or structure (regardless of its previous use) which is to be used as a restaurant for sit-down service or take-out service, or as a fast food establishment, or any other intended use where a beverage or food handler's license is required; and

**WHEREAS**, the Applicant submitted an undated site plan, consisting of two sheets; and

**WHEREAS**, the Applicant submitted a Letter of Noncompliance issued by Thomas Behrens, PP, AICP (Mr. Behrens), the Borough Zoning Officer and Board Planner, dated September 2, 2020; and

**WHEREAS**, the Board, after carefully considering the evidence and testimony presented by the Applicant, as well as the September 2, 2020 Letter of Noncompliance, has made the following factual findings and conclusions:

The Proposal and Property

1. The Board reviewed the application and deemed it complete on October 7, 2020 during its work session. The Board held a public hearing on the application immediately following the work session.

2. The Applicant is seeking site plan approval on a food handler's license required for the change in tenancy and operation of the Property as a retail pickling business and store.

3. The approval sought is in accordance with §350-4E of the Borough Code, which states notwithstanding the provisions of Section 350-5B(3), site plan approval shall be required for any building or structure (regardless of its previous use) which is to be used as a restaurant for sit-down service or take-out service or as a fast-food establishment, or any other intended use where a beverage or food handler's license is required.

4. The Applicant proposes to operate a retail pickling business and store on the Property. The Applicant's business will occupy the northerly retail unit on the Property, which currently contains a hair and beauty parlor.

5. The Property is located in the C-1 Commercial: Neighborhood Business District, where the proposed food store use is permitted.

6. The site, identified as Block 212, Lot 23, is approximately 5,061 square feet located along eastern side of Kinderkamack Road. The site is improved with a one and one-half story frame building, with two retail units. The northerly unit contains a hair and beauty parlor and the southerly unit contains a restaurant, the River Edge Pizza Kitchen. There are 4 paved parking spaces. The changes in tenancy and operation do not require additional parking spaces. Development surrounding the site includes commercial developments.

#### Public Hearing

7. The Board considered the September 2, 2020 Letter of Noncompliance and the prepared by Mr. Behrens. Pursuant to Mr. Behrens' letter, in accordance with Borough Code §350-4E, notwithstanding the provisions of §350-5B(3), site plan approval shall be required for any building or structure (regardless of its previous use) which is to be used as a restaurant for sit-down service or take-out service or as a fast-food establishment, or any other intended use where a beverage or food handlers' license is required. A site plan application to the River Edge Land Use Board is required given the need for a food handlers' license (and certificate of occupancy).

8. The Board considered testimony from Ms. Lee, who was duly sworn and provided testimony in support of the application.

9. Ms. Lee testified that she intends to operate a retail pickling business and store on the Property. The pickling will require the installation of refrigerators, sinks and workstations or tables to wash and prepare the vegetables for pickling.

10. Ms. Lee testified that she anticipates the installation of three sink stations. One sink station for dishwashing, one sink station for handwashing and one sink station for vegetable washing. Ms. Lee testified that the number of sinks may vary depending on health requirements.

Ms. Lee testified that she will comply with all Borough and County Health Department requirements for her pickling business.

11. Ms. Lee testified that she currently makes and packages kimchi to sell to retail and grocery stores and may pickle beets and peppers or other vegetables in the future. The proposed pickling business will also have a retail storefront for sale of her pickled products to the public for take-out only.

12. In response to questions from the Board, Ms. Lee testified that she was uncertain of the exact number of anticipated daily retail customers but estimated that there could be approximately 15 to 20 visits per day.

13. Ms. Lee testified that her business will have 2 employees, herself and one other person. She intends to prepare and package the products in the back of the unit, which will be accessible to employees only. She intends to have a small retail store at the front of the unit, which will be open to the public.

14. Mr. Behrens inquired as to the proposed hours of operation. Ms. Lee testified that employees will be on-site from approximately 7:00 a.m. to 7:00 p.m. and the retail store will be open to the public from approximately 11:00 a.m. to 4:00 p.m. Ms. Lee also testified that she intends to operate the business 6 days per week and close on Sundays.

15. In response to questions from the Board, Ms. Lee testified that she and the other employee will use their personal vehicles for deliveries and that produce will be dropped off in the parking area of the Property by distributors using mid-size vans. In addition, Ms. Lee confirmed that she will carry out the waste from her business because there is no access to the basement.

16. Ms. Lee testified that her lease includes access to 2 parking spaces and does not permit access to the basement or second floor of the Property.

17. In response to questions from the Board, Ms. Lee testified that her pickling business does not require the use of any stoves or ventilation and only uses natural ingredients. Ms. Lee agreed that if she intends to change her business to install stoves in the future, she would follow all Borough requirements and, if necessary, submit a new or revised application to the Borough to determine if additional Board approvals would be required.

18. Ms. Lee testified that she intends to operate her retail pickling business in accordance with all prior approvals on the site. Ms. Lee confirmed that she does not propose any changes to the site. Ms. Lee agreed that any signage will adhere to the Borough Code or she will seek additional approvals from the Board.

19. Mr. Behrens advised the Board that this was only a change in tenancy, there are no variance or parking issues.

20. The Board advised and the Applicant agreed that if any additional changes are to be made on the Property, such as the addition of stoves for cooking or seating for customers, then the Applicant will be required to amend or file a new application with the Borough to determine if Board approval is required.

21. The meeting was opened to members of the public for comment but no one appeared to be heard.

22. The Board then entertained a motion to grant the application requesting site plan approval for a food handler's license. A motion to grant the application with conditions was made

by Vice Chairman Mehrman and seconded by Councilman Chinigo. A vote was taken and the Board approved the application by a vote of 9 to 0, with two alternates voting.

Justification for Relief

23. The application met the requirements of the Borough Ordinance, prior Board Resolutions associated with the Property and did not require variance relief.

24. The Board determined that the Applicant addressed all issues raised by Mr. Behrens in his September 2, 2020 Letter of Noncompliance to the satisfaction of the Board.

**NOW THEREFORE, BE IT RESOLVED** that the Municipal Land Use Board of the Borough of River Edge hereby grants the Applicant minor site plan approval for food handler's license, with the following conditions:

1. The Applicant shall post all required application fees and provide sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account. No permits or certificates will be issued, nor will any work be performed by Board professionals or staff at any time that the Applicant's escrow account balance is not paid current, which shall be set forth by certification of the Board Planner. The Applicant will have a continuing duty to maintain a positive balance in all escrow accounts until all conditions have been satisfied and all charges have been paid.

2. Operation of the pickling business and use of the Property shall be consistent with testimony offered at the public hearing, the findings and conclusions of the Board herein, and the conditions set forth in this Resolution.

3. The Applicant agrees to adhere to all Borough Code requirements for signage or seek additional approval from the Board.

4. The Applicant agrees to adhere to all Borough Code requirements for any change in operations to include cooking or stoves and to submit a new or amended application to determine if additional Board approvals are required.

5. The Applicant's proposed operation and use of the Property shall conform to the requirements of any prior approvals issued by the Board and the Borough, which are not inconsistent with this Resolution.

6. The Board's approval is expressly subject to all State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State, including all Health Department rules, regulations, requirements and conditions.

7. The Applicant's obtaining of approvals from all outside agencies shall be a prerequisite for issuance of a building permit and certificate of occupancy, including but not limited to, obtaining written final approval from the Bergen County Planning Board, the Bergen County Department of Health Services, the Borough of River Edge Health Department, and the Borough of River Edge, if applicable.

8. If applicable, the Applicant shall comply with all requirements of the Board Engineer, Costa Engineering, subject to the reasonable satisfaction and approval of the Board Engineer and the Board.

9. The Applicant shall comply with all comments and conditions imposed by the Board, the Board Planner and the Board Engineer, as stated on the record and as may be stated in this Resolution.

**Vote on the Application**

<b><u>MEMBER</u></b>	<b><u>M</u></b>	<b><u>2D</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>	<b><u>ABSENT</u></b>	<b><u>INELG</u></b>
Mayor Thomas Papaleo			X				
Councilman Chinigo		X	X				
James Arakelian			X				
Eileen Boland						X	
Louis Grasso						X	
Alphonse Bartelloni			X				
Michael Krey			X				
Richard Mehrman	X		X				
Chris Caslin			X				
Ryan Gibbons [Alternate #1]			X				
Gary Esposito [Alternate #2]			X				

**Vote on the Memorialization**

<b><u>MEMBER</u></b>	<b><u>M</u></b>	<b><u>2D</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>	<b><u>ABSENT</u></b>	<b><u>INELG</u></b>
Mayor Thomas Papaleo							
Councilman Chinigo							
James Arakelian							
Eileen Boland							X
Louis Grasso							X
Alphonse Bartelloni							
Michael Krey							
Richard Mehrman							
Chris Caslin							
Ryan Gibbons [Alternate #1]							
Gary Esposito [Alternate #2]							

**BE IT FURTHER RESOLVED** that the Resolution adopted on this 21st day of October, 2020 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10.g, as set forth above, at its October 7, 2020 meeting, and that a copy of this Resolution be provided to the Applicant, the Construction Code Official of the Borough of River Edge, and a notice of this decision shall be published in the official newspaper of the Borough of River Edge.

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James Arakelian, Chairman

**CERTIFICATION**

I, Louis Grasso, Secretary of the Board, do hereby certify that the above Resolution was adopted by the Board at its meeting held on October 21, 2020. This Resolution memorializes the Board's approval of this matter at its meeting held on October 7, 2020.

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Louis Grasso, Secretary  
Borough of River Edge  
Municipal Land Use Board