

**Zoning Board of Adjustment
Regular Meeting Minutes
September 18, 2019**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, September 18, 2019 at 7:00p.m., in the Municipal Building, 111 Ridgedale Avenue, Florham Park, New Jersey.

Members Present:

Mr. Jeffrey Noss, Vice Chairman
Mr. John Novalis
Mr. Rick Zeien
Mr. Matthew Engel

Members Absent:

Mr. Michael Cannilla, Chairman
Mr. Brian O'Connor
Mr. Jason Jensen
Mr. Ted Trautman

Also Present:

Mr. Kurt Senesky, Esq., Board Attorney
Mr. Michael Sgaramella, Board Engineer
Ms. Katherine O'Kane, Board Planner

Call to Order:

Mr. Noss, Vice Chairman called the meeting to order at 7:10p.m.

Statement of Adequate Notice:

Mr. Noss issued the following statement:

"I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Board by preparing a notice, specifying the time, date and place of this meeting; posting such notice on the bulletin of the Municipal Building; filing said notice with the Clerk of the Borough, forwarding the notice to the Florham Park Eagle, and forwarding, by mail and fax, the said notice to all persons on the request list, and that said notice will be included in the minutes of this meeting. This action is in accordance with the N.J.S.A. 10:4-6, et sec., "Open Public Meetings Act."

Approval of Minutes:

Approval of Minutes from the September 4, 2019 Meeting.

Mr. Zeien made a motion to approve the minutes, second by Mr. Novalis.

Roll Call: On a roll call vote all members present and eligible voted to approve the minutes.

Use Variance, Site Plan Waiver:

1. **Calvary Presbyterian Church**
144 Ridgedale Avenue
Block 2303, Lot 1

Application # BOA19-6

Applicant is seeking approval to operate a nursery school (Montessori Children's Academy).
Application is to be rescheduled to October 2, 2019. Applicant will re-notice.

Use Variance:

7. **Lucco Cucina & Bar**
207 Ridgedale Avenue
Block 804, Lot 6

Application # 19-5

Applicant is seeking approval for relief of prior resolution conditions related to hours of operation.

Brielle Tavaglione, Esq. represented the applicant. Lionel (Lee) Jorge, owner, was sworn in.

The request is to amend the hours of operation of the restaurant. Ms. Tavaglione explained that after receiving approval from this Board, the applicant obtained a liquor license. The approved hours of operation are from 12 p.m. to 10 p.m. They want to amend them to be 11 a.m. to midnight.

Mr. Senesky recalled that during the original testimony, they were not proposing a bar because there was no available liquor license. It was to be a BYOB restaurant. Subsequently after approval and during the construction phase, a liquor license did become available and they acquired it.

Mr. Jorge stated that the liquor license became available after Board approval at the end of 2017. The restaurant opened in June 2018. Mr. Jorge said that seating count remains the same as what was approved by the resolution.

Mr. Novalis thought that at the time of the actual construction, they were already putting in a bar. Mr. Jorge replied that the original floor plan did not have a bar, but it was redesigned during construction when they acquired the license.

Mr. Novalis asked if they were speaking with the owner of the Bennigan's restaurant during the original hearings. Mr. Jorge stated that they were not in contact with him at all during that time. This happened after the approval and during the restaurant construction.

Mr. Noss noted that the present owner of the Bennigan's site did not use the liquor license as he intended to. He had wanted to have a restaurant but could not find any potential users that wanted to operate a restaurant. He finally changed his plans and sold the liquor license to Mr. Jorge. Mr. Noss confirmed with Mr. Jorge that Lucco would have been a BYOB if there was no liquor license.

Mr. Senesky confirmed with Katherine O'Kane that no parking variance was needed for the original application. She agreed and noted that the parking provided was in excess of the requirement.

Mr. Senesky asked about the location and the neighboring properties. Mr. Jorge stated that there is a residential home across the street and directly next to the funeral home. It is used by a family member of the funeral home owner. He has a very good relationship with them. There is also commercial office space and a bank in the vicinity.

Mr. Senesky asked what the hours of operation are the in the PB zone. Mike Sgaramella said there are no restrictions on hours of operation in the PB zone. He added that he believes that it is 11pm in the business zone.

Mr. Noss asked about the hours of operation for other restaurants.

Mr. Jorge stated that the Thirsty Turtle is open at 11 a.m. to midnight. Mr. Noss asked about other bars. Mr. Jorge said that the restaurant/bars are in East Hanover and they are open to at least that time. Also, Madison establishments are open during that time frame as well. Some are open until 1:00 a.m.

Mr. Jorge clarified that is asking to be open to midnight for each night, but that he may close earlier during the earlier part of the week when it is less busy.

Mr. Novalis asked what time the kitchen slows down. Mr. Jorge stated that the busiest time for meal preparation in the kitchen is between 5:30pm and 8:30 p.m. Some people do come in later and eat at the bar. They want to keep the kitchen open until 11:00 p.m.

Mr. Novalis confirmed that there are 3 TV's. Mr. Jorge replied yes, but that there are no plans to add any more.

Mr. Novalis was concerned that the use would transition from a restaurant to a bar crowd after 10:00p.m. This was not discussed during the original hearing. Lee Jorge replied that it is not the intent to bring in a late night crowd. It is to allow diners to stay and have a cocktail after dinner and not rush them out.

Mr. Noss asked if hours of operation are regulated by the State. Lee Jorge stated that the State regulations mandate a closing time of no later than 2:00 a.m. He believes that places can open by 9:00am.

Matt Engel asked if they would be using a DJ and/or providing music. Lee Jorge replied that they would not be doing that. The only exception would be if they were closed to the public for a private event. He is willing to agree to a condition about that.

Mr. Noss confirmed with Mr. Jorge that there has been no incidents involving liquor, and no issues with neighbors. Lee Jorge also confirmed that they take both reservations and walk-ins. People do not just come in for a drink. That is not the business model that they want. However, they do not want to be forced to throw people out that are still in conversation after a meal.

Mr. Jorge stated that he would consider the Thirsty Turtle more of a sports bar. He is not interested in operating a sports bar and does not want to compete with them. He is very happy with his restaurant operation. He gets requests and questions from his customers as to why he is closing so early when they want to stay a little later.

Matt Engel asked what time the kitchen will close. Lee Jorge replied that it would close at 11 p.m. and last call at the bar would be 11:30 p.m. to accommodate a midnight closing time.

Rick Zeien said that he has been there several times, and agreed that it is a nice family restaurant and not a bar. It is not going to attract a young bar crowd. However, he is concerned because the variance runs with the land and he is worried about what could happen in the future. What would prevent a sports bar from opening here if this is sold someday.

Jeff Noss asked if people stop in for a beer. Rick Zeien replied that people definitely do not go there for a beer. It is more of a glass of wine or a cocktail with dinner. Lee Jorge added that they are known for their spritz bar which is wine and seltzer with garnishes added in.

Kurt Senesky stated that the business operation can be described in the resolution so that a future use must fit into certain criteria. The resolution can be written to confine the operation to a particular use.

Brielle Tavaglione agreed that the variance is for a restaurant and it must be the same use.

Katherine O'Kane asked how many seats are at the bar. Mr. Jorge stated that there are 24 seats. There are the same number of seats in the restaurant as was approved by the resolution. There was no change to the number of employees and no change in delivery and trash pick-up.

Mike Sgaramella said that the Fire Department requested yellow striping for a fire lane. The Police Department requested to be granted Title 39 enforcement that will allow them to patrol the parking lot for compliance. Kurt Senesky said Title 39 is done by resolution. Lee Jorge was willing to agree to those two items. Brielle Tavaglione also agreed and stated that there would be no objection to that.

The meeting was opened to the public.

Bill Zuckerman, 12 Keyes Street. He wanted to know how late the old Bennigan's restaurant was open until.

Rick Zeien stated that he used to work there many years ago. He said that it was open until 1:00am on Thursday, Friday, and Saturday, and until midnight on the other days. It opened at 10:00am.

Bill Zuckerman asked why they wanted to be open to midnight.

Lee Jorge stated that his customers are more of a local crowd. He would like to allow his customers to stay later if they want to since it is often requested by them.

There were no other questions or comments. Mr. Senesky stated that there are not enough members present tonight to vote on the application. He asked what date they want to carry the application to.

Marlene Rawson said that a recording can be made and sent to the absent members. She said that it can be done in time for the next meeting which is October 2, 2019.

Ms. Tavaglione asked that the application be carried to October 2, 2019.

Mr. Zeien made a motion to carry the application to the October 2, 2019 meeting with no further notice or publication, second by Mr. Novalis.

Roll Call: On a roll call vote all members present and eligible voted to carry the application.

On a motion duly made and seconded the meeting was adjourned at 8:10p.m.

Marlene Rawson
Board Secretary

September 18, 2019