

January 15, 2015

The Reorganizational Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, January 15, 2015 started at 8:03pm.

The meeting was in accordance with the Open Public Meetings Law and notice of this meeting was provided in accordance with the requirements of Chapter 231, P.L. 1975

Board Members Present: Mr. Schwartz, Mr. Wangner, Mr. Augustitus, Mr. Lisa, Mrs. Jenkins, Mrs. DaSilva, Mr. Ritter, Mr. Salan, Ms. Tanelli

Also present were Lisa Thompson, Attorney and Nancy Pravata, Secretary.

Mr. Salan and Ms. Tanelli were sworn in by Lisa Thompson, Esq. Board Attorney.

On a Motion by Mr. Augustitus, seconded by Mr. Lisa, Mr. Schwartz was nominated as Chairman. The motion was carried by a unanimous vote.

On a Motion by Mr. Augustitus, seconded by Mr. Lisa, Mr. Wangner was nominated as Vice-Chairman. The motion was carried by a unanimous vote.

On a Motion by Mr. Schwartz, seconded by Mr. Augustitus, Mrs. Pravata was nominated as Board Secretary. The motion was carried by a unanimous vote.

On a Motion by Mr. Schwartz, seconded by Mr. Lisa, Mrs. Thompson was nominated as Board Attorney. The motion was carried by a unanimous vote.

On a Motion by Mr. Lisa, seconded by Mrs. Jenkins - A Resolution Approving A Professional Services Contract By And Between the Borough of North Caldwell Zoning Board Of Adjustment and Lisa Thompson, Esq. was adopted as drafted. The motion was carried by a unanimous vote.

On a Motion by Mr. Lisa, seconded by Mr. Augustitus - A Resolution naming Nancy A. Pravata as Board Secretary was approved. The motion was carried unanimously.

On a Motion by Mr. Lisa, seconded by Mr. Augustitus to approve the 2015 Meeting dates. The motion was carried by a unanimous vote.

## **MINUTES**

Motion by Mr. Augustitus to approve the minutes of February 19, 2014, seconded by Mr. Wangner. The minutes were unanimously approved.

Minutes of July 16, 2014 were tabled.

Motion by Mr. Augustitus to approve the minutes of November 19, 2014, with a minor typographical error corrected, seconded by Mr. Lisa. The minutes, as corrected, were unanimously approved.

Motion by Mr. Lisa to approve the minutes of December 10, 2014, seconded by Mr. Ritter. The minutes were unanimously approved with Mr. Augustitus abstaining.

## **MEMORIALIZATIONS**

### **MATTER OF DESI'S HOSPITALITY, LLC**

**Decided: December 10, 2014**

**Memorialized: January 14, 2015**

**WHEREAS**, Desi's Hospitality, LLC (hereinafter referred to as the "Applicant") has filed an application for use and bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) to install an

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illuminated sign above a new restaurant within the existing shopping center located at 11 Bloomfield Avenue, also known as Lot 9 in Block 100 (the "Property"). The subject Property is located in the Office Zone; and

**WHEREAS**, all owners of property located within 200 feet of the Property were properly notified according to law; and

**WHEREAS**, the jurisdiction and powers of this Board have been properly invoked and exercised pursuant to Statute; and

**WHEREAS**, a public hearing was held by this Board on December 10, 2014; and

**WHEREAS**, the Applicant was represented by David Faloni, Esq.; and

**WHEREAS**, testimony in support of the Application was presented to the Board by David Zita, James Faloni and Michael Desiderio; and

**WHEREAS**, the Board considered documentary evidence submitted with the Application, and exhibits presented during the public hearing; and

**WHEREAS**, the Board makes the following finding and determination based upon the following facts:

1. The Applicant seeks approval of a sign variance to permit the installation of a sign exceeding the maximum size permitted under Section 107-31 of the Borough Code. The Applicant seeks a sign of approximately 4 feet by 9 feet where the maximum vertical or horizontal dimension of any sign shall not exceed 2 feet.

2. David Zita, a representative of the sign manufacturer, was sworn in and testified in support of the Application, stating that the proposed sign was designed to be consistent with the other tenants in the strip mall. The proposed sign was designed with state of the art indirect LED lighting which does not produce glare. Mr. Zita testified that a confirming sign would not be visible from Bloomfield Avenue. In addition, the sign was designed to balance the existing Spencer Savings Bank sign, which is approximately 6 feet tall and 11 feet wide.

3. Mr. Zita testified that the proposed sign has been installed temporarily. The sign design and materials were selected to identify the new restaurant and remain consistent with the signs of the other tenants. If approved by the Board, the sign would be made permanent.

4. James Faloni, a representative of the Applicant, was sworn in and presented testimony concerning the sign. Mr. Faloni stated that the property owner, Martin Heller, approved the sign. In response to questions from the Board, Mr. Faloni stated that the sign was installed prior to Board approval because he was not aware that a variance would be needed. Mr.

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Faloni also testified that a "Coming Soon" sign was installed in advance of the restaurant's anticipated opening on January 5, 2015.

5. Mr. Faloni testified that a confirming sign would hinder the restaurant business as it would not be visible. The proposed sign was designed to represent the restaurant, be visible to passing traffic along Bloomfield Avenue and remain consistent with the neighboring tenants.

6. Michael Desiderio, chef and partner in the restaurant business, was sworn in and testified. Mr. Desiderio described the business as a 120 seat high-end restaurant offering American cuisine. Mr. Desiderio stated that he and Mr. Faloni grew up in North Caldwell and hoped to run a business together.

7. The hearing was open to the public, without comment.

8. Upon deliberation by the Board, it was noted that the enforcement of the current sign ordinance presents a hardship. The Board members noted that the proposed sign is consistent with the signs for the other tenants and will be visible to drivers on Bloomfield Avenue.

**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board determined that Applicant has met the criteria for the variance requested, with the benefits outweighing any detriment. On a motion by Mr. Wangner, seconded by Mr. Lisa, the Board unanimously approved the Application of Desi's Hospitality, LLC, as submitted, with Mr. Wangner, Mr. Lisa, Ms. Jenkins, Mr. Ritter and Mr. Schwartz voting in favor.

**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 14<sup>th</sup> day of January 2015, by a majority of the members of the Board present at such meeting and who voted for the action taken on December 10, 2014.

Mr. Lisa moved to accept the resolution as submitted, Mrs. Jenkins seconded. The resolution was unanimously approved.

There being no further matters to come before the Board, the meeting was adjourned at 8:28 p.m.

Respectfully Submitted,



Nancy A. Pravata, Board Secretary