

EDGEWATER BOROUGH PLANNING BOARD

**RE: PRELIMINARY AND FINAL SITE PLAN APPROVAL
FOR 339 RIVER ROAD HOLDINGS LLC**

RESOLUTION NO.

Made By: CHRISTIANSEN

Seconded By: PILAT

WHEREAS, 339 RIVER ROAD HOLDINGS LLC ("Applicant") is the owner of property located at 339 River Road, also known as Block 91, Lot 2 (the "Property") on the Edgewater Borough Tax Map; and

WHEREAS, the Applicant has submitted an application to develop the site with approximately a 161,161 square foot retail/commercial building; and

WHEREAS, the proposed structure is one-story with customer parking located on the ground level as well as the roof; and

WHEREAS, the property is located in the B-3 Waterfront Commercial District; and

WHEREAS, the Applicant has applied to the Planning Board for Preliminary and Final Site Plan approval; and

WHEREAS, the Application was initially filed on or about July 28, 2023, and a completeness hearing occurred on September 25th and the application was deemed complete; and

WHEREAS, hearings were subsequently held on the application on November 27, 2023, January 22, 2024 and February 26, 2024; and

WHEREAS, proper notice was provided for the hearings; and

WHEREAS, the Applicant was represented by Brian Chewcaskie, Esq., of Cleary Jacobbe, Alfieri & Jacobs LLC as well as the following experts:

Applicant's Civil Engineer, Alexander Lomei, P.E.
Applicant's Architect, Joseph Pikiewicz, RA, FX Collaborative Architects;
Applicant's Architect, Daniel Kaplan, RA, FX Collaborative Architects;
Applicant's Traffic Engineer, Paul Going, PE, PTOE

WHEREAS, all other jurisdictional requirements have been met and the Board determined that it had jurisdiction to hear the Application.

WHEREAS, the following testimony was introduced during the course of the following hearings:

November 27, 2023 hearing

1. The Applicant introduced the Applicant's Engineer, Mr. Alex Lomei, P.E. from Bohler Engineering, Mr. Lomei was sworn in and accepted as a professional engineer and presented the following testimony:
 - a. Mr Lomei gave an overview of the existing site conditions on the property, presented Exhibit A-1, which was an aerial view of the property dated November 27, 2023, explained the surrounding uses to the site as well as the fact that the existing site used to be used for an old movie theatre;
 - b. Mr. Lomei then introduced Exhibit A-2, which was a colorized version of Sheet 301 that was included with the application, which showed the proposed conditions for the site.
 - c. The overall scope of the development was testified to in regard to approximately 108,000 square feet of retail and approximately 50,000 square feet for a grocery use.
 - d. There would be 755 total parking spaces, with 16 ADA spaces and 35 EV spaces, parking would be located on the ground level as well as approximately half the parking would be located on the roof of the actual building. The site would require 790 spaces, so with the State EV credit, the proposal would be compliant with the number of parking spaces.
 - e. Mr. Lomei also discussed that access to the site would not change and access would be off River Road onto Thompson Lane and/or Penny Lane and then into the site. Thompson Lane would have one ingress/egress onto the site and Penny Lane would have two points of ingress/egress onto the site.
 - f. Mr. Lomei testified that they would not be proposing any improvements to the Hudson River Walkway, however Counsel conceded that if it is in disrepair, it will be repaired to the current standards as required by Ordinance.
 - g. Mr. Lomei identified that the Applicant is not requesting any variances for this project and that all bulk standards are met.
 - h. Stormwater Management is proposed on-site and will be designed in accordance with DEP stormwater management regulations, it is noted that the proposed development will decrease the amount of impervious coverage by about 18.5% from the current impervious coverage (approximately 70,942 square feet less).

- i. Mr. Lomei also described the proposed landscaping on the site and reviewed the Board Engineer's review letter and comments and indicated that they would generally comply with all comments in the letter.
2. During the Course of Mr. Lomei's testimony, the Board asked the following questions:
 - a. Extensive questioning was raised regarding the width of Penny Lane and Thompson Lane and how narrow they are and whether they are designed to support such additional traffic that will be generated by the site or whether any improvements will be required. Mr. Lomei indicated that some improvements might be needed and any improvements would be constructed on their side of the road.
 - b. Questions were also raised regarding traffic congestion and queuing along the ingresses/egresses as it relates to the neighboring properties and conflicts between the two and queuing onto River Road. Additionally traffic questions were raised regarding conflicts with the existing uses, and congestion that could result due to reduction in number of ingresses/egresses to the site.
 - c. There were questions regarding existing flooding conditions and how that will be handled, which Mr. Lomei addressed.
 - d. The Board also had extensive questions regarding the rooftop parking, lack of pedestrian walkways in the parking area and the safety of pedestrians throughout the sight as there is no pedestrian walkways, which the Board expressed as a safety concern for such a large parking area, especially with the distance of some spots to the entrance doors.
 - e. The Board also expressed concern for the safety of first responders to access the rooftop parking and the whether the structure could be designed to carry the weight load of all the vehicles safely.
3. Numerous members of the public also raised questions including but not limited to issues regarding traffic flow, landscaping, appropriateness of the ingress and egress for tractor trailers to access Thompson Lane and Penny Lane as well as the site, lighting on the property, and need for this type of building.
4. The Applicant introduced the Applicant's Architect, Mr. Joseph Pikiewicz, R.A. from FX Collaborative. Mr Pikiewicz was sworn in and accepted as a professional architect (licensed in New York, but colleague Dan Kaplan who is licensed in New Jersey signed and sealed the exhibits) and testified as follows:
 - a. Mr. Pikiewicz described Sheet A-100 that was submitted with the Application which is a diagrammatical site plan of the ground floor of

- the building showing approximately 161,000 square foot structure. The sheet also showed the rooftop parking access and surface parking.
- b. Mr. Pikiewicz described the elevations around the site, the location of the loading docks, and addressed the needs of a potential tenant to prefer a sole access point to the building for customers as opposed to having elevators at opposite ends for access.
 - c. Mr. Pikiewicz also addressed the comments in the Board's Professionals review letters.
5. The Board asked numerous questions of the architect regarding the location and siting of the building on the site, if an additional ingress/egress would be possible to allow for better traffic circulation and safety, whether the rooftop parking is viable and occupancy load of the building.
 6. The Board also raised the fact that the Borough had performed their own traffic study for the entire Borough called Street Light and it provides some good traffic information that people should review.
 7. Numerous members of the public also raised questions including but not limited to issues regarding a fiscal impact study, an environmental impact study, traffic study, and potential users of the site.

January 22, 2024 hearing

8. The Applicant introduced the Applicant's Architect, Mr. Danial Kaplan, RA, from FX Collaborative. Mr. Kaplan was sworn in and accepted as a professional architect and testified as follows:
 - a. Mr. Kaplan introduced A-3, which is sheet A-101 with a date of January 22, 2024 and testified to the rooftop parking area and described the two-way car ramp to access the roof, two means of egress, additional stairways that were added to the site plan, that the roof structure would be designed and constructed to support the load that is anticipated.
 - b. Mr. Kaplan also presented A-4, which was a revised Sheet A-100, with a revision date of January 22, 2024 and went through the elevations and the height of the building to the parapet.
9. The Board asked questions regarding emergency vehicle access to the roof, safety of the rooftop structure for parking purposes, the additional stair access for emergency egress and sufficiency of the same, whether the elevators are appropriate for cart access and storage of carts on the roof, whether it would be more appropriate to lift the building up and have the parking underneath for both safety and functional purposes and asked that be considered, lastly the differing elevations of the building and the property.

10. Numerous members of the public also raised questions including but not limited to issues regarding the size of the building, whether they have determined the exact tenants for the property yet, traffic, safety of rooftop parking, emergency access for fires on the roof and specifically EV car fires, pedestrian walkways for safety around the parking lot, loading docks location and functionality, getting the carts off the roof, and safety of tractor trailers accessing and traversing the site who will be making deliveries.
11. The Applicant brought back, the Applicant's Engineer, Mr. Alex Lomei, P.E. who was previously sworn and remained under oath and offered additional testimony to address some questions that were raised as follows:
 - a. Mr. Lomei introduced Exhibit A-2A, which was a revised version of the prior Exhibit A-2, with a revision date of January 22, 2024. The revisions added some additional dimensions that were requested at the previous meeting.
 - b. Mr. Lomei went through the parking calculations again and answered questions regarding the EV credit, he addressed questions regarding the ADA spaces, the trash compactors, the distances between certain aspects of the proposal and neighboring properties.
 - c. Mr. Lomei went through the dimensions of Penny Lane and Thompson Lane, addressed that sidewalks could be provided on the Penny Lane side of the site, but a variance might be required, which the Board would prefer to have sidewalks for pedestrian safety and access, and Mr. Lomei also addressed the revised comments from the Board Engineer in their revised review letter.
12. The Board asked questions once again regarding whether the Applicant would consider raising the structure and placing all the parking underneath for the safety of everyone, for better ingress and egress and for emergency services, the Board reiterated their concern for rooftop parking, that they know of no other building within the Edgewater, let alone Bergen County that has this type of arrangement and that they don't think it is appropriate for this site.
13. The Board further expressed the concern that the building could be reduced in size, to lower the parking requirement slightly and possibly build a small garage, or seek a variance for the parking requirement, that these alternatives would be a much better planning alternative than what is being proposed with maxing out the square footage and creating this absolutely unique and first of its kind scenario of placing almost half of the parking on the roof of a commercial/retail structure.
14. The Board also raised concerns that the Applicant is anticipating all truck traffic will be utilizing Thompson Lane and none will be accessing Penny Lane.

15. Numerous members of the public also raised questions including but not limited to issues regarding the setbacks, overall site layout, whether the building could be shifted away from the residential neighbors and more toward River Road to help alleviate some of their concerns, noise concerns, easements for the neighboring HOAs, the waterfront walkway and its repairs, truck traffic, as well as egress from the neighboring Promenade development.

February 26, 2024 hearing:

16. The Applicant introduce the Applicant's Traffic Engineer, Mr. Paul Going, from Atlantic Traffic and Design. Mr. Going was sworn in and accepted as an expert in the field of Traffic Engineering and testified as follows:
- a. Mr. Going testified that they prepared a traffic report dated July 25, 2023 and then was updated with a revised date of February 14, 2024.
 - b. Mr. Going described the overall access to the site, both vehicular and pedestrian. Mr. Going also explained that there will be rooftop parking, but agreed with the Board that he does not know of anywhere else that has rooftop parking available as an option.
 - c. Mr. Going indicated that the intended use of the project would be some type of discount club, like a Costco, NJ's or Sam's Club. He used the ITE trip generation manual to estimate the number of trips being generated by the proposed use.
 - d. Mr. Going testified that their traffic counts were performed on Thursday June 29, 2023 and Saturday July 1, 2023, which was noted by the Board to be the 4th of July Holiday weekend.
 - e. Mr. Going then went through the calculations used and the traffic report findings. Mr. Goings did note that mitigation would be required on River Road and he believed that adjusting the signal timing at traffic lights would be used as a mitigation tool and they would be required to coordinate with the County on that aspect of the project because River Road is a County Road.
 - f. In response to the Board's question about queuing that would impact Independence Harbor, Mr. Goin testified that it would be addressed by signal mitigation, but when advised there is no signal at that site, he testified that they would have to address that upstream and downstream of the site and indicated that in his opinion the only mitigation that needed to be considered was within the County jurisdiction on River Road.
17. Member of the Board asked numerous questions regarding the proposed mitigation tactics of changing the timing of the lights and whether the study looked at additional queuing that would be created. It was responded that

only two traffic lights were reviewed and it was noted that the Board Engineer requesting additional information regarding the same.

18. Members of the Board also asked questions regarding the affect this traffic will have on the queuing of cars from the neighboring residential and commercial properties as it relates to the non-county roadways that service those properties and whether they would be affected, to which Mr. Going said that was not reviewed and conceded that they show queuing occurring past the neighboring Independence Harbor development so that development would clearly be impacted.
19. Numerous Board Members asked questions regarding the queuing that would occur on Penny Lane to access the site due to the traffic and the fact that Penny Lane serves a residential community and what impacts that would have that could lead to traffic backup onto River Road and then the use of the adjacent development known as City Place as a cut through.
20. Similar concerns were raised by the Board Member as it relates to Thompson Lane and the impact of the queuing at that entrance leading to traffic bypassing Thompson and then utilizing City Place as a cut-through. The Applicant did not look at our do any analysis as to the impact on City Place.
21. The Board also introduced Mr. Brian Intindola, P.E., from Neglia Engineering as the Board's Traffic Engineer and accepted him as an expert in the field of traffic engineering. Mr. Intindola and Neglia conducted a traffic study for the Borough utilizing the Streetlight data platform. Mr. Intindola did confirm that according to his platform about 28,000 vehicles traverse River Road daily, which is in line with the report of the Applicant's Traffic Study. Mr. Intindola also did confirm that according to the Applicant's Traffic Report, you are talking about approximately 8,000 trips daily too/from the site, which would be an increase of roughly 30%. The only exception Mr. Intindola had to the Applicant's traffic report was to provide additional information as to the affect of a "membership club store" where a membership was needed, what impact the membership requirement had on the "pass-by" trips.
22. Numerous members of the public regarding traffic, specific questions were asked regarding whether the Traffic Study included studying the impact that the site traffic would have to the surrounding developments as well as the local roads, namely City Place, the Promenade, Penny Lane and Thomson Lane, all of which would be impacted by the traffic generated, to which the Applicant's expert said they did not study that and it is not in their report.
23. Mr. Lomei, the Applicant's Site Engineer was recalled and answered some questions from the board and public and testified that it was anticipated that all truck traffic would be entering from the North of the site and they did not analyze whether a truck could make the turn travelling from the South and

making a right turn into Thompson lane safely so that it would not conflict with the vehicular traffic entering and exiting the site. Mr. Lomei specifically testified that they only looked at truck traffic entering the site from the North.

WHEREAS, the Board, having reviewed the plans, application and testimony presented on behalf of Applicant, reviewed the reports of the Board's Professionals, considered the arguments and questions raised on behalf of the objectors, make the following findings of facts and conclusions of law:

1. The Board determined that they had jurisdiction to hear this Application for the proposed construction of a one-story, approximately 161,161 square foot retail/commercial building on the site and no variances were being requested as part of the application.
2. The following exhibits were marked:
 - A-1: Aerial view of the property dated November 27, 2023;
 - A-2: Colorized version of Sheet 301 that was included with the application;
 - A-2A: Revised version of Exhibit A-2, with a revision date of January 22, 2024 (marked at January 22, 2024 meeting)
 - A-3: Sheet A-101, with a revision date of January 22, 2024
 - A-4: Sheet A-100, with a revision date of January 22, 2024
 - A-5: ATD response letter dated February 15, 2024
 - A-6: Revised Traffic Impact Analysis from Atlantic Traffic
3. The following reports from the Board Professionals were also considered by the Board in this application, which reports are made a part of the record before the Board: Engineering Report dated November 1, 2023, January 18, 2024, February 22, 2024 and February 23, 2024 prepared by the Board Engineer, Bernie Mirandi, PE, from Boswell Engineering as well as a Planning Memorandums dated September 13, 2023 and November 13, 2023, prepared by the Board Planner, Kathryn Gregory, PP, AICP from Gregory Associates LLC; and
4. The Property is located in Block 91, as Lot 2 and is in the B-3 Waterfront Commercial District and the Applicant proposes to construct an approximately 161,161 square foot retail/commercial one-story building on the site, with approximately half of the required parking being located on the roof of the building.
5. The Board was not satisfied with the Applicant's testimony and the proposed site plan and determined that the design of the structure, namely the rooftop parking, was not in conformity with the surrounding structures.

6. Although the Board recognized that the use is a permitted use within the B-3 Waterfront Commercial District, the placement of approximately half of the proposed parking on the rooftop of the structure, as admitted by the Applicant's own expert, was a feature that is nowhere to be found within the Borough of Edgewater, County of Bergen or known to exist anywhere else within the State. The Board expressed numerous concerns regarding the safety of the parking of vehicles on the roof, the emergency vehicles gaining access and addressing situations that could arise, pedestrian walkways and pedestrian safety within the rooftop parking, as well as a myriad of other safety concerns.
7. The Board suggested to the Applicant to consider lifting the building and placing the parking underneath to address these safety concerns, building a parking garage, or even reducing the overall footprint of the building to lessen the number of parking spaces and seeking a variance for the parking deficiency, all of which the Board has determined would be a better design, a better planning alternative, as well as be more in conformance with other retail, commercial, and mixed-use developments within the Borough of Edgewater, such as City Place. However, the Applicant refused to make any adjustments to the design or accept any recommendations or requests from the Board during the course of the entire application.
8. As a result of the Applicant's failure to address the rooftop parking concerns, or make any requested design changes to the Application, the Board finds that the application as designed is not in conformance with the standards of the Borough of Edgewater, does not meet the necessary
9. The Board finds that the testimony of the Applicant's Traffic Expert as well as his study to be deficient in that it did not address the traffic impact to the immediately adjacent residential and mixed-use properties. The Board finds that it was not disputed that the Promenade development, City Place mixed-use development, Independence Harbor development, and Sunrise Assisted Living all utilize Penny Lane and Thompson Lane and will be impacted as a result of the increase in traffic generated by the site. All the aforementioned developments, utilize Thomson Lane and Penny Lane and the Applicant's expert admittedly testified that he did not study or include in his report any information as to the impact that the proposed development would have as it relates to those residences and businesses and their use of Penny Lane and Thompson Lane.
10. The Board determined and finds that it was not disputed and both the Board's traffic engineer and the Applicant's traffic engineer agreed that there will be a substantial increase in traffic to the site and as well as access to the site. All traffic will have to utilize either Penny Lane or Thompson Lane, both of which are local roads under the jurisdiction of


the Borough of Edgewater. As conceded by the Applicant, a portion of Penny Lane and a portion of Thompson Lane are explicitly located on the subject property. Consideration of the impact to those two local roads as well as the residents and businesses that also use those roads is a calid and proper consideration before the Board.

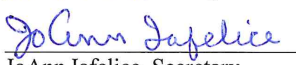
11. The Board finds that the Applicant's traffic engineer appeared to focus his study purely on the impacts to River Road, a County Road, and this focus was a clear attempt by the Applicant to divert the attention away from the impact said development will have on the local Edgewater roads, so that the Applicant can claim that all traffic issues created by this proposed project are within the County of Bergen's jurisdiction and therefore not to be considered by this Board. Although the Board concedes that any traffic impact to River Road and any necessary mitigation efforts on River Road are off-site and would be within the County of Bergen's jurisdiction, the impact to Penny Lane and Thompson Lane, as local, Borough of Edgewater roads is clearly within the jurisdiction of this Board and the specific impact to the neighboring residents and businesses that also are forced to utilize those roads on a daily basis, should have been studied and included in the Applicant's traffic engineers report, which was not done.
12. As a result of the deficiency in the Applicant's traffic engineer's report as to the impacts to Penny Lane, Thompson Lane, as it relates to the neighboring residents and businesses, the Board found the testimony lacking and found the Applicant to provide insufficient evidence to grant approval to the preliminary and final site plan application.
13. Accordingly, the Board, having considered the testimony and documentation presented as part of the application, all arguments for and against the Application, hereby determines that insufficient evidence was provided to the Board for the purposes of approving this application for preliminary and final site plan approval.
14. The Board further finds and understands that there are no variances being requested by this Application, however the lack of expert testimony as to the impacts of Penny Lane and Thompson Lane and the outright failure of the Applicant to consider the same and provide information regarding the same in their traffic report, as well as the failure to address the safety concerns raised as a result of the rooftop parking and consider the numerous alternatives proffered by the Board, compelled the Board to determine that the requires for preliminary and final site plan were lacking and therefore herby denies that subject Application.

NOW, THEREFORE, BE IT RESOLVED, by the Edgewater Borough Planning Board that the Application of 339 RIVER ROAD HOLDINGS LLC, for preliminary and final site plan approval is HEREBY DENIED.

BE IT FURTHER RESOLVED THAT a copy of this Resolution shall be sent by the Planning Board secretary to the Applicant, to the Edgewater Borough Clerk, to the Edgewater Borough Zoning Officer, and to the Edgewater Borough Building Inspector within ten (10) days of the date hereof; and

BE IT FURTHER RESOLVED THAT the Board Secretary is hereby directed to publish this resolution in the newspapers of record of the Board.


Roger Christiansen Acting Chairman


JoAnn Iafelice, Secretary

Dated: March 25, 2024

Votes in Favor: BARTOLUCCIO, PILOT, CHRISTIANSEN, MOON, FINE, CANDELMANO

Votes Against: NONE

REUSAL: TRACY