

Resolution No. 2003- 433

**RESOLUTION OF THE PLANNING BOARD  
OF THE BOROUGH OF RED BANK  
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**(PROVIDING AN INTERPRETATION OF CONDITIONS  
OF APPROVAL BLOCK 9.01, LOTS 7, 8 AND 9)  
Application No. Z5697**

**WHEREAS**, the Planning Board of the Borough of Red Bank is empowered, pursuant to the Municipal Land Use Law, *N.J.S.A. 40:55D-1, et seq.*, to hear and determine applications for development and variances under certain specific conditions; and

**WHEREAS**, Riverwalk Development, has filed with the Planning Board Secretary an application for an interpretation of certain terms and conditions of Resolution granting site plan approval dated May 13, 2002 for the premises commonly known as 24 West Front Street, Red Bank, New Jersey also known as Block 9.01, Lots 7, 8 and 9 on the official Tax Map of the Borough of Red Bank; and

**WHEREAS**, the applicant has provided notice to the public and all surrounding property owner's as required by law and has caused publication in a newspaper in general circulation in the Red Bank Area in accordance with the requirements of the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et. seq.*, this Board gaining jurisdiction thereunder; and

**WHEREAS**, the within matter was heard at a public hearing of the Planning Board and all interested parties wishing to be heard were given an opportunity to be heard; and

**WHEREAS**, the Planning Board, has considered the application, testimony of the applicant, and the opinions of the Planning Board Engineer.

**NOW, THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Red Bank that the following findings of fact and conclusions are made:

1. The application was given site plan approval with variances by Resolution of this Board dated May 13, 2002.
2. The application was given a variance for side yard deficiency when it was determined after the original approval that such variance relief was necessary by Resolution dated February 24, 2003.

3. Condition number 2 of the May 13, 2002 Resolution of Approval indicates that "no development shall occur on Lot 7, nor shall Lot 7 be used for any purpose other than that permitted by that of the Planning Board of the Borough of Red Bank as an accessory use to the development of Lots 8 and 9."
4. Condition number 3 of the May 13, 2003 Resolution of Approval further holds that Lot 7 shall be utilized for 8 to 10 parking spaces which would serve the residential residents on Lots 8 and 9.
5. The applicant testified and submitted the following documents as Exhibits into the record which indicated that Lot 7 could be utilized for something other than parking spaces for Lots 8 and 9 as follows:
  - a. The May 13, 2002 Resolution of Approval as entered as Exhibit A-1;
  - b. The minutes of the May 13, 2002 meeting were provided as Exhibit A-2; and
  - c. A letter from Gordon N. Gemma, attorney for the applicant dated September 11, 2003 to the Planning Board Secretary containing amongst other items a Deed of Consolidation and proposed Lease as to utilization of Lot 7 as Exhibit A-3.
6. Based upon the evidence presented the applicant testified that while Lot 7 would always be utilized to provide between 8 and 10 parking spaces for the residences on Lots 8 and 9, and further be restricted such that it's floor area could not be utilized in connection with floor area ratios for any adjacent property, Lot 7 could nevertheless be developed to provide a deck for parking as well as a pedestrian mall on the top of the deck that could be utilized by the public as well as residents of adjacent properties.
7. The applicant further testified that a portion of Lot 7 could be dedicated as the right-of-way for the adjacent Boat Club Court.
8. The engineer for the Planning Board indicated that it had been the intent of the Board when granting the original May 13, 2002 approval to utilize a portion of Lot 7 for the dedicated right-of-way of Boat Club Court and such other types of uses as may be appropriate for the property such as a pedestrian plaza as discussed by the applicant, provided that :
  - a. At least 8 to 10 parking spaces on Lot 7 were always set aside for the exclusive uses of the residents of Lots 8 and 9; and
  - b. That the floor area of Lot 7 could not be used in connection with floor area calculations for development of any other adjacent property.

9. The Board concluded the testimony of the applicant and of the Board Engineer was creditable with regard to the restrictions as to the utilization of Lot 7. The Board further reviewed the Exhibits as provided and agreed that it was not the intent of the Board at the May 13, 2002 hearing to so restrict Lot 7 such that it could not be utilized for any other uses than the 8 to 10 parking spaces needed in connection with development of Lots 8 and 9. In addition, the Board found that the proposed utilization of Lot 7 to provide additional parking spaces in excess of those used for Lot 8 and 9 as well as an open pedestrian mall on the roof of a proposed two-story parking garage was appropriate and in keeping with good planning principals.
10. The Board further found that utilization of Lot 7 for additional parking as well as the pedestrian plaza provides a benefit for the General Zone Plan, the Zoning Ordinance, and the public good, and is in accordance with the Master Plan of the Borough of Red Bank.
11. The Board concluded that a Resolution should be adopted setting forth the clear intent of the Board as to utilization of Lot 7.

**NOW, THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Red Bank in accordance with the findings of fact and conclusions set forth herein that Final Site Plan Approval be granted Riverwalk Development for the premises located at 24 West Front Street, Red Bank, New Jersey designated as Block 9.01, Lots 7, 8 and 9 subject to the following revised conditions:

1. Applicant may utilize Lot 7 for additional parking other than to service Lots 8 and 9 as well as a pedestrian plaza on the roof of a parking garage, or such other uses as is appropriate and may be approved by such governmental agencies having jurisdiction over same provided that at all times at least 8 to 10 parking spaces at Lot 7 are designated for the sole and exclusive use of the residence of Lots 8 and 9, Block 9.01. Further, utilization of Lot 7 for an underground parking garage and a pedestrian plaza is appropriate may be permitted provided, that under no circumstances, may the area of Lot 7 be utilized in connection with floor area ratio for the development of any adjacent properties;
2. The applicant shall provide a 4 foot right-of-way along Boat Club Court to the Borough of Red Bank and <sup>improvements</sup> ~~improvements~~ concerning the sidewalk and curbing for Boat Club Court along Lot 7 in accordance with requirements of the Borough Engineer;
3. The Deed of Consolidation and Deed transferring the property from Riverwalk Developers to the owner's of Lots 8 and 9 as set forth under the September 11, 2003 letter from Gordon N. Gemma to Ms. Smith-Barr entered into the record as Exhibit A-3 are acceptable as drafted;

4. The application shall comply with all other conditions of the Resolution Approval granted on May 13, 2002 and February 24, 2003;
5. All representations made under oath by the applicant or its agent shall be deemed conditions of this Approval and any misrepresentation or actions by the applicant contrary to the representations made before the Board shall be deemed a violation of this Approval; and
6. Subject to any and all Municipal, County, State or Federal Regulations as they may apply;
7. The applicant must publish adequate notice of this Resolution in the official newspaper of the Borough of Red Bank at their sole cost and expense, within thirty (30) days of this Resolution and provide proof of publication.

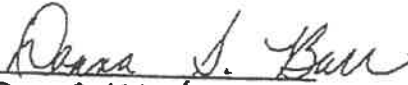
The foregoing was Moved by Dr. Maratta  
Seconded by Mr. Sickels and on Roll Call, the  
following vote was recorded:

Affirmative: Councilman John Curley, Louis DiMento, John Goode,  
Dr. Guy Maratta, Stanley Sickels

Negative: None

Abstentions: None

I, Donna Smith Barr, Secretary to the Planning Board of the Borough of Red Bank, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Board of Borough of Red Bank at its regular meeting held on November 24, 2003

  
Donna Smith Barr  
Planning Board Secretary