

**BOROUGH OF DUMONT
COUNTY OF BERGEN
JOINT LAND USE BOARD**

**RESOLUTION GRANTING MINOR SITE PLAN WITH RESPECT TO THE
PROPERTY KNOWN AS
32 W. MADISON AVENUE
BLOCK 904; LOT 29, BOROUGH OF DUMONS
COUNTY OF BERGEN, STATE OF NEW JERSEY**

WHEREAS, the within Application was brought before the Board by 32 OLE, LLC which seeks to operate a restaurant on the Property known as "Ole Chicken"; and

WHEREAS, the Property is owned by William & Elisa Deegan and currently contains a 2-story mixed use building which includes a commercial vacancy on the first floor and apartment units on the second floor; and

WHEREAS, the Property is located in the "B-2" Business Zone of the Borough and Restaurants are a permitted use therein; and

WHEREAS, 32 OLE LLC made an application to the Joint Land Use Board of the Borough of Dumont for Site Plan Approval with variances, and was heard by the Board at a public hearing on February 26, 2019 (hereinafter, "the Hearing" or "Public Hearing") for the required approvals; and

WHEREAS, the Applicant was not seeking any variances or waivers in connection with the within application; and

WHEREAS, pre-existing conditions are as follows:

Category	Allowed	Proposed	Variance
Lot Coverage	70%	97.07%	No
Loading	1 off-street loading space	None provided on property	No
Parking	N/A	None provided on property	No
Sidewalk	10'	6.5'	No

WHEREAS, the Applicant and the Board introduced the following Exhibits into evidence:

Exhibit A-1 4 Page Preliminary and Final Site Plan, prepared by Michels & Waldron, dated February 8, 2019

Exhibit A-2 Mechanical Drawings prepared by Michels & Waldron

Exhibit A-3 Identical Mechanical Drawings prepared by Michels & Waldron
with revision date of May 4, 2021

WHEREAS, Planning Board Engineers, Boswell McClave Engineering, Dennis Harrington, PE, submitted a Letter Report, dated February 21, 2019, which report was accepted into evidence and made part of the submission; and

WHEREAS, at the Public Hearing, certain residents provided testimony, and relevant testimony also was adduced through then Applicant's counsel, Stephen A. Geffner, Esq., of the law firm of Schenck, Price, Smith and King, from the following witnesses: 1) Juan Gonzalez; 2) Art Michels, AIA; and 3) Dennis Harrington, PE of Boswell Engineering; and

WHEREAS, following the Public Hearing, the Joint Land Use Board made certain Conclusions and Determinations, and ultimately voted to deny the Application, for the reasons set forth more fully in the "RESOLUTION OF DENIAL FOR MINOR SITE PLAN APPLICATION WITH BULK VARIANCES AND/OR WAIVERS" adopted on February 26, 2019 (see Exhibit "A" hereto.); and

WHEREAS, Applicant filed a Complaint in Lieu of Prerogative Writ challenging the denial of the Application in a proceeding filed in the Superior Court of New Jersey, Law Division, Bergen County, in an action bearing docket no. BER-L-5694-19 (the "Civil Action"); and

WHEREAS, in an Order and Opinion issued in the Civil Action on December 4, 2020 (the "Court Order"), the Honorable Christine A. Farrington, J.S.C., reversed the Joint Land Use Board's denial of Applicant's Application for the reasons stated therein, and remanded the matter to the Joint Land Use Board directing the Joint Land Use Board to grant Applicant's minor site plan Application (see Exhibit "B" hereto); and

WHEREAS, in further support of the minor site plan approval, Applicant re-submitted architectural drawings prepared by Michels & Waldron, dated May 4, 2021, which are identical in all respects (except for the date) to the drawings that were submitted previously to the Joint Land Use Board and before the Court in the Civil Action; and

WHEREAS, at a public meeting of the Joint Land Use Board held virtually via WebEx on Tuesday, June 15, 2021, Edward T. Rogan, Esq., of Edward Rogan & Associates, LLC, the attorney for the Applicant in the Civil Action, appeared on behalf of the Applicant and requested that the

Joint Land Use Board immediately grant the Application for minor site plan approval as directed by the Court Order; and

WHEREAS, an updated Identical Mechanical Drawing prepared by Michels & Waldron dated May 5, 2021, was provided to the Borough for record keeping purposes.

NOW, THEREFORE, BE IT RESOLVED by the Joint Land Use Board that, pursuant to the Court Order, the Board hereby votes to grant the Application for minor site plan approval with pre-existing conditions.

CONDITIONS SPECIFIC TO THE APPLICATION

1. Applicant shall comply with all the necessary requirements of the Zoning and Health Ordinances of the Borough of Dumont, the Municipal Land Use Act of the State of New Jersey, N.J.S.A. 40:55D-2, et seq., and State Health Codes.
2. All refuse generated from the Applicant restaurant shall be stored by Applicant on lower level of premises until date(s) of collection.

GENERAL CONDITIONS

1. No building, structure or land shall be occupied until such time as the Zoning Officer of the Borough of Dumont shall issue a final certificate of zoning compliance to ensure compliance with the Board's decision and any applicable Mayor and Council decisions.
2. The Application shall comply with the necessary requirements of the zoning ordinances of the Borough of Dumont and the Municipal Land Use Act of the State of New Jersey, N.J.S.A. 40:55D-2 et seq.
3. Applicant shall prepare and improve the subject premises to conform with all the details shown on the complete building plans and submissions, as presented to the Board and in accordance with the zoning ordinances, building codes and all other standards and ordinances unless expressly stated to the contrary within the approvals granted.
4. All submitted plans and submissions must be approved and signed by the Board Chairman, and Board Secretary, prior to submission to the Zoning Officer of the Borough of Dumont, Certificate of Zoning Compliance, and prior to the issuance of any applicable permits.
5. Unless otherwise addressed herein or at the hearing held on June 18, 2021, the Applicant shall comply with the recommendations of the Board's professional

and any other post-approval reports. The Applicant's professionals shall prepare and submit architectural plans to reflect these recommendations in the form of drawing detail and/or written construction note detail format, as necessary. In addition, the Applicant's professionals shall amend any engineering reports, engineering calculations that were presented as a part of the testimony before the Board as necessary and/or required by the Board Engineer and the Board Planner. All such amendments shall be submitted to the Board Engineer and Board Planner for review within thirty (30) days of the adoption of this Resolution. A Planting Plan shall be submitted to the Board Planner for her approval. Failure to provide same within this period may result in this Resolution being declared null and void.


6. Within thirty (30) days of the approval of this Resolution by the Board, the Applicant shall, if necessary, post any additional escrow funding that may be required to reimburse the Borough's professionals for the review of this Application. Failure to provide such escrow fees may result in this Resolution being declared null and void.
7. The completed revised plans and submissions must be approved and signed by the Board Chairman, and Board Secretary, prior to submission to the Zoning Officer of the Borough of Dumont Certificate of Zoning Compliance, and prior to the issuance of any building permits.
8. The applicant is responsible for publishing notice of this decision as required by the M.L.U.L.
9. This application was approved by the Joint Land Use Board at its regular meeting of June 15, 2021, in accordance with the Court Order of the Hon. Christine A. Farrington, J.S.C. dated December 4, 2020 bearing Docket No. BER-L-5694-19 upon motion of Board Member Nico Attanasio, and seconded by Chairman Graeme Dutkowsky upon the roll call as follows:

Ayes: 6
Nays: 0
Absent: 0
Abstain: 2

ROLL CALL:

Nico Attanasio	Class I	Y
Jimmy Chae	Class III	Y
Ken Melamed	Class IV	Y
Graeme Dutkowsky	Class IV	Y
Andrew Warta	Class IV	Y
Gino Zilocchi	Class IV	Y

This Resolution was adopted on the 20th day of July, 2021 upon the motions of
NICO ATTANASIO and seconded by GRAEME DUTKOWSKY and by a vote of 6 Ayes and
0 Nays.


Graeme Dutkowsky, Chairman

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Applicant, Borough Clerk, Construction Code Official and Zoning Officer of the Borough of Dumont.

I do certify that this is a true and correct copy of the Resolution as adopted by the Joint Land Use Board of the Borough of Dumont, County of Bergen, and State of New Jersey in the within Application.


Rebecca Vazquez, Secretary

EXHIBIT "A"

**RESOLUTION OF DENIAL FOR MINOR SITE PLAN APPLICATION
WITH BULK VARIANCES AND/OR WAIVERS**