

**Borough of Ho-Ho-Kus  
Bergen County, New Jersey  
Zoning Board Minutes  
July 13, 2022  
Regular Meeting**

**Meeting Called to Order at 7:00PM by Vice Chairman Madden**

**Open Public Meeting's Act Statement: Read into the record by the Board Secretary.**

**Salute to Flag**

**Roll Call:** Messrs. Cox, Forst (absent), Ms. Metzger (absent at time of roll call; arrived at 7:10PM), Messrs. Rodger, Madden, Ms. Raschdorf, Ms. Deegan, Mr. Martinez, Chairman Tarantino (absent)

**Also in attendance:** Gary J Cucchiara, Esq., Substitute Board Attorney; Ms. JoAnn Carroll, Board Secretary

**Please note: due to the fact Chairman Tarantino was absent, Vice Chairman Madden was the Chairman for this meeting.**

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**Completeness Review/New Business (Public Hearing):**

**Mr. Mark Infante, Saratoga Lane LLC, 2 Orvil Court, Block 1008, Lot 5, GB Zone; OL-2 Zone**

**Ongoing Business:**

**Mr. & Mrs. Mourad Elayan, 58 Jacquelin Avenue, Block 403, Lot 3.01, R1 Zone**

**Chairman Madden:** stated, for the record, both the 2 Orvil Court and 58 Jacquelin applications were carried to the August 18, 2022 meeting of the Board starting at 7:00PM; no further notices were required of either applicant.

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**Completeness Review:**

**Mr. Sean Cottrell, 1 Pitcairn Avenue, Block 1202, Lot 21, R2 Zone:** applicant installed a generator in the front yard (corner lot); non-compliance with VI 85-35 generators are only permitted in the side or rear yard.

**Gary Giannantonio, Esq.:** applicant's attorney; placed his appearance on the record; further stated the application is for the placement of a generator in the front yard; the applicant's property is a corner lot.

**Ms. Raschdorf:** asked for the applicant to show the generator, fence and any trees on the site plan.

**Mr. Giannantonio:** stated the generator and fence will be shown and he will determine if there are any trees in the area.

**Mr. Cucchiara:** stated this is just a Completeness Review; no testimony will be taken or witnesses heard or any exhibits received this evening; the matter will not be discussed on its merits in anyway; the sole purpose of the applicant's appearance this evening is for the Board to determine if the application is complete, and if so, to schedule a public hearing which would be held on August 18, 2022 at 7:00PM.

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**New Business:**

**Ms. Olive Ho, Tojo Restaurant, 1-7 N. Franklin Turnpike, Block 1013, Lot 2, GB Zone:** applicant seeks to occupy a 635 sf tenant space for use as a "ghost" kitchen; any use not specifically permitted in the zone, is expressly prohibited in the zone; D(1) variance **(Please note: mailing address is 9 N. Franklin Turnpike)**

**Mr. Cucchiara:** confirmed with the Board Secretary that the tax payments on the property have been paid and all notices are in order.

**Nicholas Doria, Esq.:** applicant's attorney; placed his appearance on the record; the applicant proposes to establish a ghost kitchen at 9 N. Franklin Tpke. where foods would be prepared for the existing business at 5 N. Franklin Turnpike; 5 N. Franklin Turnpike does not have adequate facilities to make some of the dishes; also use for storage; referenced site plan; there will be refrigerated areas at 9 N. Franklin Tpke. as well.

**Please note: Member Metzger arrived at this time, 7:10PM; Mr. Doria repeated his opening statement.**

**Ms. Deegan:** asked if there will still be an operating kitchen at 5 N. Franklin Turnpike.

**Mr. Doria:** stated yes.

**The following exhibits were marked:**

**Exhibit A1: Application package including the Letter of Explanation**

**Exhibit A2: Site Plan, dated November 19, 2021**

**Exhibit A3: Property Survey**

**Exhibit A4: Zoning Officer's denial**



**Ms. Olive Ho:** sworn in by Mr. Cucchiara; explained in detail the nature of the business; the kitchen space at 5 N. Franklin Turnpike is too small; enough food cannot be prepped; will install freezers and stove top for cooking at 9 N. Franklin; will have three employees; not sure how much prep will be needed; presently has two employees at 5 N. Franklin; is only open half of the week currently; seeking to open all week after the summer is over; needs extra space to cook more food; a van would deliver ingredients approximately once a month; 9 N. Franklin will not be open to the public; only employees will be on site; hours of operation to be 9AM-5PM.

**Ms. Deegan:** asked how many trucks are parked at the parking lot.

**Ms. Ho:** stated the cars are parked at the municipal lot.

**Mr. Martinez:** confirmed the business at 5 N. Franklin is only open from 9AM-5PM Monday to Wednesday.

**Ms. Ho:** stated the prep kitchen will be open from 9AM to 5PM; currently, 5 N. Franklin is open from 12 Noon to 8:30PM; have six tables at 5 N. Franklin.

**Mr. Doria:** stated there is capacity for more.

**Mr. Martinez:** asked if the applicant would consider expanding once the other prep kitchen is in use.

**Ms. Ho:** stated there are bar seats on the floor plan but they can't be used because kitchen tools are placed on the bar; there is no space to add more tables.

**Ms. Raschdorf:** asked if the kitchen at 5 N. Franklin would be removed.

**Ms. Ho:** stated no; needs the kitchen at 5 N. Franklin to cook the food and 9 N. Franklin to prep the food.

**Ms. Raschdorf:** asked if the ghost kitchen would be used to prep food for any other locations.

**Ms. Ho:** stated no.

**Mr. Cox:** asked if the food would be moving back and forth.

**Ms. Ho:** stated there is not enough space to cook; cooks a lot of soup for ramen; there is only a small space at 5 N. Franklin to store soup; need space to store more food items.

**Mr. Cox:** asked if the applicant wanted to buy the food in larger portions.

**Ms. Ho:** stated with bigger equipment they will be able to buy more food and prepare more food.

**Chairman Madden:** asked if food would be transferred between the ghost kitchen and 5 N. Franklin.

**Ms. Ho:** stated yes; can take food from the freezer and refrigerator for prep; not preparing orders.

**Chairman Madden:** asked how many times will the supplier make deliveries to the ghost kitchen.

**Ms. Ho:** stated at this time only once per month; if they get busier, it could be more.

**Mr. Doria:** stated the restaurant at 5 N. Franklin has seating capacity for 36 people; has already been approved; there are only 6 tables presently and limited counter seating.

**Mr. Cox:** asked if the applicant will stay with 6 tables at 5 N. Franklin.

**Ms. Ho:** stated yes; it is uncomfortable with more than 6 tables; will only use the seating at the bar area.

**Ms. Deegan:** stated the space for the ghost kitchen is fairly large; asked if that much space is needed.

**Mr. Doria:** stated even though the proposed ghost kitchen location looks much larger than 5 N. Franklin, it is only 35 sf larger.

**Ms. Raschdorf:** asked if the applicant would be prepping food for their Garden State Plaza location at the ghost kitchen.

**Ms. Ho:** stated no; there is enough space at Garden State Plaza.

**Meeting opened to the public at this time; no members of the public were in attendance.**

**Please note: the applicant asked for a brief recess at this time; the Board continued with the approval of minutes while Mr. Doria conferred with his client.**

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**Approval of May 2, 2022 Minutes:** Cox  
**Seconded by:** Raschdorf



**Ayes:** Cox, Rodger, Raschdorf, Deegan, Martinez

**Nays:** None

**Approval of June 2, 2022 Minutes:** Rodger

**Seconded by:** Raschdorf

**Ayes:** Rodger, Chairman Madden, Raschdorf, Deegan

**Nays:** None

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**Ms. Brigitte Bogart,** applicant's planner; sworn in by Mr. Cucchiara; gave her educational and professional background; license is in good standing; accepted as an expert in the field of planning.

**Ms. Bogart:** stated she was familiar with the concept of a ghost kitchen; the concept is new from a planning perspective; cited the Borough's ordinance as to the definition of a kitchen; has visited the site; unique site; number of difficulties due to the intersection; understands the requirements of a use variance; described the two types of use variances; believes the ghost kitchen use is appropriate for this location; operating under a restaurant concept; providing a more efficient use of the land; looking to provide additional space for a thriving business; reviewed the Master Plan; parking for this type of use is not required; no detriment to the public good.

**Mr. Cox:** asked if a bakery could be opened at the site without the need for a use variance.

**Ms. Bogart:** stated yes.

**Ms. Metzger:** stated it is environmentally better not to have a van going back and forth from the property.

**Ms. Raschdorf:** asked, since the restaurant at 5 N. Franklin is associated with the subject property, if the restaurant and 5 N. Franklin closes, what substantial benefit would the ghost kitchen have to the community?

**Ms. Bogart:** stated it would operate the same.

**Ms. Raschdorf:** stated it negates the benefit to the community; the ghost kitchen will be servicing the restaurant; they are not adjacent; they are running independent of each other; at one time the space was an antique store; now there will be refrigerators up against the front windows; it is essentially the back end of a restaurant on the main street of the town.

**Ms. Bogart:** stated she believes the benefits of the concept of a ghost kitchen in this location makes perfect sense giving its unique challenges in regards to parking and traffic circulation.

**Ms. Raschdorf:** asked where the dumpsters for the business will be located; by placing a ghost kitchen at this location, we are putting the back of a business front and center.

**Ms. Bogart:** stated she understood Ms. Raschdorf's concern.

**Ms. Raschdorf:** asked if there is any historical data in regards to motor vehicle accidents; the stop bar has been moved back which was done by the County; when cars are pulling in and out of the site, they are given way and waiting for the traffic light.

**Ms. Bogart:** stated a traffic study was not conducted; the use is less of an impact that what would be permitted.

**Ms. Raschdorf:** asked if there was any opportunity for the ghost kitchen location to become a serviceable restaurant if 5 N. Franklin closes.

**Ms. Bogart:** stated the applicant could modify the floor plan and it would be permitted.

**Ms. Ho:** spoke regarding seeing the back of refrigeration units from the front windows of the business; the goal is to have prep space and to not show equipment; wants her customers to see her business using fresh food; all food is made from scratch on site.

**Mr. Cox:** asked, if the variance was granted, would it run with the land.

**Mr. Cucchiara:** stated yes; a stipulation could be made that if the restaurant at 5 N. Franklin ceases to operate, then the variance would terminate; difficult situation; strange condition under these circumstances; may not serve the applicant's interest.

**Ms. Metzger:** stated that restaurants do attract vermin; asked how the garbage would be addressed.

**Ms. Bogart:** stated the applicant would abide by all regulations as it relates to garbage disposal.

**Please note: a brief discussion was held at this time regarding the definition of a restaurant vs. a take-out business.**

**Mr. Cucchiara:** asked Mr. Doria to confer with his client as to how many deliveries she would be receiving per month.



**Mr. Doria:** stated his applicant can stipulate to four times a month for deliveries; basically, once per week; between the hours of 9AM and 5PM, but not during peak hours; can't speak to partial deliveries.

**Mr. Cucchiara:** asked how the number of deliveries would be enforced.

**Mr. Doria:** stated delivery slips could be submitted to the Construction Code Official.

**Meeting opened to the public at this time; no members of the public were in attendance.**

**Mr. Doria:** stated the planner indicated a ghost kitchen is a very good use for this location; a permitted use would have more foot traffic and cars; the use will be beneficial to the business at 5 N. Franklin and a use that the people of the town could appreciate due to the fact they can see the food being prepared; believes the use is one that is particularly suited for the difficult location and any other use would be worse if it were a retail location.

**Motion to approve the application with the stipulation that all deliveries will take place between the hours of 9AM and 5PM, but not during peak hours, and there will be no more than four deliveries per month: Rodger**

**Seconded by:** Cox

**Ayes:** Cox, Metzger, Rodger, Deegan, Martinez

**Nays:** Raschdorf, Chairman Madden

**Application approved with 5 votes.**

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**Motion to adjourn:** Rodger

**Seconded by:** Metzger

**All in Favor**

**None Opposed**

**Meeting adjourned at 8:19PM.**

Respectfully submitted by:

  
JoAnn Carroll

Zoning Board Secretary

August 2, 2022

**APPROVED ON AUGUST 18, 2022**