

**MEMORIALIZING RESOLUTION OF THE
BOROUGH OF SEASIDE PARK PLANNING BOARD**

**Application No. PB 18-18
Jason Wacha, Lisa Wacha And
This Is Yoga NJ At Ocean Organics, Applicant
1409 NW Central Avenue
Block 74.01, Lot 56**

WHEREAS, the Borough of Seaside Park Planning Board is a duly constituted Planning Board pursuant to N.J.S.A. 40:55D-23 and 25c, and Borough of Seaside Park Development Ordinance §200-15; and

WHEREAS, **JASON WACHA, LISA WACHA and THIS IS YOGA NJ AT OCEAN ORGANICS**, applicant, Lynne A. Dunn, Esq. appearing, have applied to the Planning Board of the Borough of Seaside Park to change the use of a vacant storefront unit to a yoga studio necessitating a special reasons variance and site plan waivers for premises located at 1409 NW Central Avenue, also known as block 74.01, lot 56 as designated on the official tax map of the Borough of Seaside Park; and

WHEREAS, the applicants have provided proper notice to all property owners within 200 feet and all other pertinent parties; and

WHEREAS, the applicants have submitted to the Board an Affidavit of Publication in proper form; and

WHEREAS, the applicants are requesting a special reasons variance to permit a yoga studio, and a waiver of the site plan regulations; and

WHEREAS, the Planning Board having considered the application and the documents filed by the applicants; having heard the testimony on behalf of the applicant

and witnesses, and having examined the exhibits submitted, and having heard the testimony of all interested parties during its meeting of September 25, 2018; and

WHEREAS, the Planning Board after carefully considering all the evidence provided, has made the following findings of fact:

1. All those exhibits contained in the Board file and discussed during the hearing are hereby considered evidence for the purpose of this application.

2. In addition to the exhibits noted above, the following exhibits were also specifically marked into evidence at the hearing:

- A-1 Development Application
- A-2 Tax Collector's Certification
- A-3 Water & Sewer Certification
- A-4 Tax Assessor's Certified List of Property owners
- A-5 Affidavit of service
- A-6 Affidavit of publication
- A-7 Hearing notice.
- A-8 Board Engineer review letter prepared by Douglas Rohmeyer, PE, CME, CFM of CME Associates dated September 10, 2018.
- A-9 Zoning permit denial dated June 13, 2018.
- A-10 Variance Plan prepared by Joseph Kociuba, PE, PP of KBA Engineering Services, LLC, dated August 27, 2018, One Sheet. (Superseded below)
- A-11 Outbound and Topographical Survey prepared by Alan R. Boettger, PLS dated August 16, 2018.
- A-12 Color Photos depicting existing conditions at the site.
- A-13 Variance Plan prepared by Joseph Kociuba, PE, PP of KBA Engineering Services, LLC, dated August 27, 2018, last revised September 11, 2018, One Sheet.

A-14 Tenant Space Layout Plan prepared by Morgan Engineering and Surveying, dated September 25, 2018, One Sheet.

3. The property is located in the MX Zone District which does not permit personal service uses such as yoga studios.

4. The applicants are the lessees of the subject property.

5. LISA WACHA, was duly sworn and testified as follows:

A. She testified she is the owner and operator of Ocean Organics Café, the business next door to the space at issue in the application. Her experience in this industry, and feedback from her customer base has shown a demand in the area for a yoga studio, which will complement her existing business. Yoga is commonly performed on the Borough beaches but, unfortunately, this use is not permitted anywhere in the Borough, and her zoning permit application was denied.

B. Her operations plan includes 1 teacher per class, with a maximum of 11 students per class. She estimates the average class will likely be 6 to 10 students. Classes will be one hour long, with a maximum of 8 classes per day in peak season. Operating hours will be no longer than 6:00 a.m to 9:00 p.m.

C. All studio operations will be indoors only, and there will not be any physical internal connection between the two adjacent premises of Ocean Organics and the Yoga Studio.

D. She proposes limited retail sales in the yoga studio, confined to the space noted on the Tenant Space Layout Plan. Mats, blocks, and some clothing will be offered for sale, and all items will be directly related to performing yoga.

6. MATTHEW WILDER, PE, PP was duly sworn and testified as follows:

- A. The site will provide an ADA compliant bathroom.
- B. The accessory retail space is approximately 10 feet by 4.5 feet, and it is conducive to the yoga class use.
- C. The proposed yoga studio and the existing Ocean Organics Café uses complement each other and serve a similar clientele.
- D. The proposed use permits year round yoga for residents which promotes the health and welfare of the Borough.
- E. The proposal resurrects a storefront along the Borough's main commercial corridor that has gone vacant for over four years.
- F. The 2008 Master Plan includes as a goal for this location promoting business that can survive all year, not just during the tourist season.
- G. He opined the proposed development will promote zoning purpose G of the MLUL, recreational uses, and purpose I, aesthetics.
- H. Since the residents have been requesting this use, he opined the proposal promotes the Master Plan Land Use and Density Goal of "recognizing that properties along Rt. 35 should cohesively link the Borough's various activities and its neighborhoods."
- I. The use is a low intensity one which will generate nearly zero noise, odor or light pollution, and therefore has no negative impact on the permitted uses in this zone or the adjacent Residential Zone. The MX zone is transition zone in nature, and the proposed use adheres to this goal.
- J. The existing bulk non-conformities will not be impacted at all, as the site is fully developed except for a proposed 4x4 concrete landing and 4x4 AC condenser platform. The building has been in this location for over 70 years, and no parking is

proposed or required. Additionally, no new exterior lighting is proposed, and all signs will comply with the development regulations. Refuse management will be consistent with the adjacent Ocean Organics Café. Therefore, it is appropriate to waive formal site plan review in this case.

7. The meeting was opened to the public.

8. JASMIN GRASSO, 1403 NW Central Avenue, was duly sworn and testified her property is about 200 feet away from applicant's property, that the proposal is "good for the neighborhood" and she fully supports the application. In addition, the applicants have proven themselves as great neighbor and business operator in the Borough as evidenced by the successful Ocean Organics Café next door.

9. The meeting was closed to the public as there were no additional members of the public that wished to be heard.

10. The Board considered the testimony of the applicant and the witnesses and all the exhibits contained in the Board file and same are hereby incorporated as the findings of fact of the Planning Board.

WHEREAS, the Borough of Seaside Park Planning Board has determined that

- a. special reasons exist to grant a departure from the development regulations;
and
- b. the purposes of the Municipal Land Use Law will be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation substantially outweigh any detriment; and
- c. the applicant will suffer undue hardship if the relief is not granted; and

d. the variances requested by the applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinances of the Borough of Seaside Park for the following reasons:

1. The proposed development enhances the aesthetics of the site by developing a visible storefront along the Borough's main commercial corridor that has remained vacant since Superstorm Sandy 6 years ago.

2. The proposed development does not violate the light, air, or space of any adjacent property owners as the building is not being expanded in any fashion.

3. The proposed development provides an appropriate transitional use between the residential uses to the west, and Route 35 to the east.

4. The site is particularly suited for a yoga studio as there is demand for a year round location to practice yoga, and the adjacent health related café next door, Ocean Organics complements the use with overlapping clientele.

5. The proposed use is a low intensity personal service and recreational use that promotes the health and welfare of the Borough residents.

NOW, THEREFORE, be it resolved by the Borough of Seaside Park Planning Board on this 23rd day of October, 2018, that the application **JASON WACHA, LISA WACHA and THIS IS YOGA NJ AT OCEAN ORGANICS** for variances be and hereby is granted subject, however, to the following conditions:

1. A special reasons variance to permit a yoga studio use shall be granted.

2. All yoga classes and accessory sales shall take place inside the building. No activities shall be carried on outside the building other than storage of permitted refuse containers in their existing locations.
3. There shall not be any physical internal connection between the two adjacent premises of Ocean Organics and the Yoga Studio.
4. All customers shall enter and exit through the easterly Route 35 entrance only.
5. The proposed A/C condenser on the west side of the building shall be screened from view with lattice type materials.
6. The accessory retail sales shall be confined to the location noted on the Tenant Space Layout Plan.
7. The fish cleaning station, and any other debris or stored items in the yard areas shall be removed.
8. The applicant's operations shall be limited to the manner, times and occupancy limits set forth in the testimony set forth above.
9. The applicant shall strictly comply with the plans and surveys submitted and discussed, as amended, during the hearing. Any deviation from said plans shall be subject to further review and approval by the Planning Board.
10. The variances granted herein shall be exercised within two years as provided by Borough Code 200-16D.
11. The applicant shall obtain any and all other federal, state, county, local or CAFRA approvals as required by law.

12. The applicant shall provide performance bonds and inspection fees in accordance with the Seaside Park Borough Ordinances or any other law or regulation as required.

13. Proof of payment of real estate taxes to date, and all outstanding application or professional escrow fees. No zoning or building permit shall issue until proof of payment is submitted accordingly.

Moved by: Mr. Losey

Seconded by: Mr. DiCaro

ROLL CALL

Those in Favor: Mr. Losey, Mr. DiCaro, Lt. Boag, Mr. Bucci, Ms. Pitchell, Vice Chairman Wilk, Chairman Giuliano

Those Opposed: NONE

Those Abstaining: NONE

CERTIFICATION

I, Sandra Martin, interim secretary of the Borough of Seaside Park Planning Board, hereby certify the above Resolution to be a true and correct copy of a Resolution adopted by the Borough of Seaside Park Planning Board on October 23, 2018.

Sandra F. Martin

SANDRA MARTIN