

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF
HADDONFIELD GRANTING VARIANCE APPROVAL TO
LEAF EATERY, LLC
ZBA #2018-28**

A public hearing on this matter was conducted by the Board on December 18, 2018

APPLICATION NUMBER: ZBA#2018-28

PROPERTY ADDRESS: 6 Kings Court
Block 34, Lot 10 on the Tax Map

NAME OF APPLICANT: Leaf Eatery, LLC

OWNER OF PROPERTY: Sunset East, LLC

DATE OF HEARING: December 18, 2018

BOARD MEMBERS PRESENT
AND VOTING: Linda Kuritzkes, Chairperson
Kevin Burns, Vice Chairperson
Susan Baltake
Wayne Partenheimer
Bryan Pukenas
Marc Rubino (Alternate I)
Colleen Bianco-Bezich (Alternate III)

ALSO PRESENT: Steve Sweet (Alternate IV)

APPEARANCES: Richard Hoff, Esquire, Attorney for Applicant
Mark Barrone, Applicant's Architect
Melissa Mastandrea, Applicant's Principal
Gregory J. Sullivan, Borough Engineer
Tavis Karrow, Zoning Officer & Board Secretary
Francis X. Ryan, Esquire, Board Solicitor

PROPERTY DESCRIPTION

ZONING DISTRICT: D-4A

LOT DIMENSIONS: 20.7' x 57' (irregular)

LOT AREA: 1,168.5 +/- square feet

STREET FRONTAGE: None

STRUCTURES LOCATED
ON LOT: Commercial rental space in Kings Court

DEVELOPMENT PROPOSAL

1. Addition of exhaust hood and fan.

RELIEF/VARIANCE REQUESTED

1. A variance from Section 135–65.1(B)(6) which requires that restaurants in the Downtown Zoning District have a system to vent cooking exhaust and odors which vents “shall be interior and exit through the roof.” Applicant seeks to have the vent exit through the rear wall.
2. Certificate of Appropriateness.

SUBMISSIONS

Application and supporting documents.
HPC Letter of Recommendation dated November 14, 2018

SUMMARY OF TESTIMONY AND EVIDENCE

The Applicant’s attorney provided an overview of the application. The Applicant is currently operating a vegetarian eatery in 6 Kings Court. They have been in operation for approximately one year and they are looking to expand their menu to add some cooked items. Restaurants are a conditional use in the Downtown Zone and one of the conditions which must be satisfied is a system to vent cooking exhaust and odors. The ordinance specifically provides that the vent “shall... exit through the roof.” Here, it is impossible to exit through the roof because there are condominiums above the space that are not owned by the Applicant.

The architect testified and indicated that there was no way to vent through the roof because of the residential units above. He also indicated that the placement of the exhaust on the rear of the building was a suitable alternative and that the vents would be angled to comply with all codes and requirements.

Peter Iris-Williams of 1113 Concord Drive in Haddonfield appeared and testified. He

indicated that he was the owner of Unit 203 of Kings Court which is located above the Applicant's business. He expressed concerns over smells and failure to maintain the exhaust fan. He related that there had been problems with a prior occupant of the space who had been cooking without proper ventilation. He also questioned what his remedies would be if the ventilation system did not work and he experienced problems. He was informed that he could contact the Construction Code Office or the Zoning officer.

Charlie Ramos of 4 Walden Court in Cherry Hill also appeared and testified. He claims to own two of the residential units in the Kings Court Condominiums. He stated that he actually owns Unit 203 and that his daughter occupies same. His position was that Kings Court as it now exists functions as a "living room" for many of the residents of the condominiums as well as the general public. He feels that it needs a "good kitchen" and that Applicant has been providing same during the year that it has been opened. He believes that expanding the menu would be beneficial and that he was in favor of the application.

The Board also heard from Mark Rusc of the Historic Preservation Commission. He indicated that the HPC had reviewed the matter and had recommended that the Board issue a Certificate of Appropriateness.

FINDINGS OF FACT AND CONCLUSIONS

1. The subject property is located in the D-4A Downtown Zone.
2. In order to obtain a variance pursuant to N.J.S.A. 40:55D-70(c)(1), the Applicant must show that there is a particular hardship running with the land. In this case, the fact that the existing rental space is on the first floor of a multi-unit building, prevents Applicant from complying with the ordinance and venting their cooking apparatus through the roof.
3. The granting of the variance does not represent any detriment to the zone plan or ordinance.
4. The relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.
5. Due notice has been given in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.) and the rules of the Board of Adjustment.
6. Site plan waiver is warranted in this case because the exterior of the building is not being modified or altered.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the

Borough of Haddonfield, that subject to the conditions noted below, that the application for a variance be and is hereby granted, pursuant to N.J.S.A. 40:55D-70(c).

CONDITIONS OF APPROVAL

1. The construction and installation of the vent system must conform to the representations of the Application during its presentation.
2. Any and all installed systems must be approved by Construction Code Official and Fire Marshall as may be required. Nothing in this herein resolution extends to construction or fire code approval.

Motion by: Burns; seconded by Rubino

Board members voting to grant the requested variance: Kuritzkes, Burns, Baltake, Partenheimer, Rubino and Bianco-Bezich

Board members voting to deny the requested variances: None

CERTIFICATION

I hereby certify that the foregoing is a true, accurate, and complete copy of the resolution of memorialization adopted by the Zoning Board at its regular monthly meeting on January 15, 2019, memorializing action taken by the Zoning Board on December 18, 2018.

Tavis A. Karrow, Board Secretary