

**BOROUGH OF MIDLAND PARK
COUNTY OF BERGEN
PLANNING BOARD**

**RESOLUTION GRANTING SITE PLAN APPROVAL FOR PREMISES KNOWN AS
BLOCK 17, LOT 10,
KNOWN AS 190 GODWIN AVE., BOROUGH OF MIDLAND PARK
COUNTY OF BERGEN, STATE OF NEW JERSEY**

WHEREAS, an application has been submitted to the Borough of Midland Park Planning Board by Bino Realty, LLC, d/b/a Peter's Fish Market for amended site plan approval for the premises known as Block 17, Lot 10 on the current tax assessment map of the Borough of Midland Park; and

WHEREAS, a public hearing of the Planning Board was held on Monday, October 16, 2023 (in which due notice was given) and during which the Planning Board heard testimony by the applicant and its consultants, representatives, and experts, and the Planning Board reviewed and considered all correspondence, maps, plats, reports and public input, if any, on the application, as well as a presentation by the applicant's attorney, Bruce Whitaker, Esq., together with all exhibits submitted as evidence; and

WHEREAS, along with the application, the applicant submitted the following a plan prepared by Robert J. Weissman, P.E. & L.S. dated December 12, 2022 with a revision date of August 8, 2023.

WHEREAS, during the public hearing the applicant introduced a photograph depicting the current entrance to the applicant's premises which was marked as Exhibit A-1.

WHEREAS, the submissions by Applicant have been reviewed by the Planning Board engineer, Erik Boe, and his comments and recommendations are set forth in a report to the Planning Board dated June 6, 2023 and revised on August 25, 2023; and

WHEREAS, the Planning Board also considered the following documents:

1. Inter-office memo from the Midland Park Construction Official marked as received on September 29, 2023
2. Inter-office memo from the Midland Park Fire Prevention Officer which is marked as received on September 28, 2023

WHEREAS, The Planning Board heard testimony from the applicant's representatives as follows:

Bruce Whitaker, Esq. appeared as attorney for the applicant. Mr. Whitaker advised the Board that the applicant proposes to occupy the entire building. Part of the building was previously occupied by another tenant who has vacated. There are no proposed changes to the footprint of the building or physical changes to the site except for a change to the entrance areas for the applicant's business, some alterations to the parking configuration, an enlargement of a dumpster area and the installation of an emergency generator. The applicant's operations will not change but there will be additional

space to operate more efficiently. The applicant will stipulate that the generator will be programmed to run a test weekly on Wednesday between 1 PM and 2 PM as is required for proper operations. Specifications for the generator will be provided to the building department to confirm that the noise levels will meet state decibel limits. In response to the comments in the Board engineer's report, the existing shed will be removed so no variance is required for the setback. There are no other variances required in connection with this application. In response to comments from the Borough departments, a Knox box will be installed and floor plans will be provided to the building department.

Robert Weissman was accepted by the Board as an expert in the field of engineering. He testified generally as to the existing conditions on the site. The applicant proposes to move the entrance to its retail area from the north side of the front of the building to the south side of the front of the building. The design of the entrance will be identical to the existing entrance area as shown on Exhibit A-1. Additional landscaping will be added along the front near the new entrance area. A handicapped entrance will be installed in the rear of the property as the slope of the property at the new entrance area in the front would not meet the requirements for handicapped access because of the slope. In response to an inquiry from a Board member, the applicant agreed to install a directional sign near the property entrance for the handicapped entrance. There will be 38 parking spaces available on the property. 31 spaces are required by the Zoning Ordinance, calculated using retail and office requirements. As part of the premises will be warehouse use, this is the most conservative calculation. The dumpster area, located on the north side of the property, will be expanded by 70 square feet to allow for an additional dumpster. All parking spaces and aisles remain compliant with the requirements of the zoning ordinance. There are no changes to the existing lighting proposed or required. He confirmed that no variances are required. In response to a comment from a Board member, it was agreed that the gate at the new dumpster area would be enlarged to 10 feet wide and a buffer of plantings would be added to the north of that dumpster area.

Steve Sclafani testified on behalf of the applicant. He is one of the principals of the applicant. He testified in response to an inquiry from one of the Board members concerning the area depicted on the plan as a "pallet material storage area." The Board member noted that outside storage was not permitted. He testified that the pallets are actually debris and are used for deliveries but picked up periodically. He agreed that they would be stored in one of the two dumpster areas onsite and the area noted as a pallet area could be used for two additional parking spaces. Use of the entire building will allow the business to operate more efficiently by allowing deliveries to be processed quicker. There will be no change to the scope of the existing operation of the business.

The matter was opened to the public for questions and comments. James Bargman, Gary Bardzel and Mark Infante appeared. They all expressed concerns about the fish smell emanating from the dumpster area and had a concern about the refrigerated trailers that were parked in the rear lot during the Christmas holiday period. Mr. Sclafani advised that with the additional interior space, it would no longer be necessary to have trailers parked in the lot during the holiday season. He also advised the residents that the dumpster areas were cleaned and disinfected daily, and he would continue to take action necessary to keep sanitary.

WHEREAS, the Planning Board makes the following findings of fact/conclusions of law:

1. The applicant operates a retail and wholesale seafood supply business. The retail operation is a permitted use in the B-1 Zone but the wholesale operation is not a permitted use. The applicant obtained a use variance from the Zoning Board of Adjustment to operate the wholesale supply business in conjunction with the retail operation with certain conditions contained in the Resolution of approval.

2. The Zoning Officer has determined that the current application involving applicant's use of the entire building does not constitute an expansion of the wholesale use and the jurisdiction for this application for an amended site plan lies with the Planning Board. The Planning Board agreed with that determination.

3. The checklist items for which waivers are requested are not necessary for the Board to adequately consider the application.

4. The application does not require any variances and is otherwise in conformance with the requirements of the Site Plan and Zoning Ordinances. The site alterations are minor, the number of parking spaces is sufficient and the alterations to the site do not have any effect on the use of the site.

5. There will be no expansion or increase in intensity of the use of the site; and

WHEREAS, the proposed alterations to the site meet all of the requirements of the Zoning Ordinance such that no variances are required and the information provided is sufficient to allow the Board to evaluate the alterations proposed;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board that based upon the above findings of fact and conclusions of law that the application of Bino Realty, LLC for the waivers from the checklist requirements requested and for amended site plan approval for those premises known as Block 17, Lot 10, 190 Godwin Ave., in accordance with the plans and exhibits is hereby granted; and

BE IT FURTHER RESOLVED that the approvals set forth above are subject to the following conditions:

1. That the granting of the application is subject to the approval of the Bergen County Planning Board, if necessary.

2. All improvements will be constructed in accordance with the Plans. Notwithstanding, no approval granted herein shall be deemed to supercede any building code requirements.

3. The applicant shall obtain and comply with any federal, state, county, and borough government rules, ordinances, or regulations with regard to the granting of the applications hereto, including the payment of all fees and escrows, established by the Borough for the review of the subject application.
4. To the extent not set forth above, the applicant shall comply with any and all applicable requirements of the Federal Americans with Disabilities Act.
5. This approval is subject to all of the representations made by the applicant and its experts.
6. Compliance with all checklist items and requirements in the report from the Board engineer noted above.
7. Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by ordinance within 30 days of the adoption of a resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance as applicable;
8. The applicant shall construct all proposed improvement in strict compliance with the documentary and testimonial evidence submitted to the Board, including, but not limited to, any plans submitted or presented as part of the application, any exhibits introduced into evidence, and any statements made during the course of the hearing;
9. Any conditions of approval stipulated to by the applicant during the hearing are incorporated herein, even if not specifically stated;
10. The aforementioned approval shall be subject to all requirements, conditions, restrictions, and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein.
11. The applicant shall install a knox box in a location to be approved by the Fire Official.
12. The time for the emergency generator operations test shall be limited to Wednesdays between the hours of 1 PM and 2 PM. The applicant shall provide written manufacturer's specifications for the generator confirming that the noise levels to not exceed state standards.
13. The shed in the rear of the property will be removed.
14. No overnight storage of product in trailers is permitted.
15. The gate for the dumpster on the north side of the property will be 10 feet wide.

16. The applicant shall add plantings as a buffer on the north side of the dumpster area to buffer that area of a type and spacing to be agreed to by the Board engineer.

17. All conditions contained in the Resolution of the Board of Adjustment dated March 8, 2017 remain in effect.

BE IT FURTHER RESOLVED that the Chairman and the Secretary of the Board are hereby authorized to affix their signatures to this resolution granting approval for preliminary and final site plan and variances. The Secretary of the Board is hereby authorized to advertise the action taken by way of this resolution in the local newspaper and furthermore send certified copies of this resolution to the Borough tax assessor, construction code enforcement official, building sub-code official, zoning official, the borough attorney, and the applicant=s attorney.

Approved: November 21, 2023

Planning Board of the Borough of Midland Park

JESSICA HARMON, *Secretary*

By: _____
KENT RIGG, *Chairman*