

THOMAS J. HIRSCH

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July 23, 2024

Land Use Board of the Borough of Bradley Beach
701 Main Street
Bradley Beach, NJ 07720
Attn: Ms. Kristie Dickert, Secretary

Re: Coastal Custom Builders
Block 32, Lots 17 & 18
803 & 811 Main Street
Request for Final One-Year Extension of Time For Approvals

Dear Ms. Dickert:

I represent Coastal Custom Builders. The above-referenced site plan variance and application was approved by the Board and memorialized in the Board's resolution of September 24, 2020. The Municipal Land Use Law provides that the final site plan approval is protected from any changes in development regulations for a period of two years from the date of the resolution. Therefore, the initial two-year period expired on September 23, 2022. I note the protection provided by the COVID-19 Permit Extension Act expired on July 4, 2021.

However, I filed on behalf of my client a request for a one-year extension pursuant to N.J.S.A. 40:55D-52. That statute provides that the Board granting the approval of the site plan may grant up to three one-year extensions protecting the site plan from any changes in the development regulations. The Board placed the matter on their agenda, and we appeared before the Board, and as a result of that hearing, the Board voted to approve a one-year extension. I attach a copy of the Board's resolution approving the one-year extension. Therefore, that extension extended the final site plan protections afforded to the final site plan approval to September 23, 2023.

Subsequently, my client applied for the second one-year extension, and I attach the Resolution granting that extension which continued the time period for protection of the approval under the Municipal Land Use Law to September 23, 2024. The reasons

for the request for that second year were outlined in my letter to the Board of July 21, 2023 attached hereto for your easy reference.

As indicated in that letter, we were trying to resolve the Affordable Housing issue for this project working with Mr. Cucchiaro, Affordable Housing consultant to the Borough and Jennifer Beahm, the Borough's planner. We exchanged various communications in an attempt to resolve the issues, and ultimately, I provided a settlement resolution position to Mr. Cucchiaro on June 26, 2024. That communication, which I understand has been presented to Council, outlined my client's offer to construct Affordable Housing units and the issues that would require the redesign of the building in question and other issues either requiring an amendment to the zoning ordinance for this particular Affordable Housing development and/or a revision of the approved site plan.

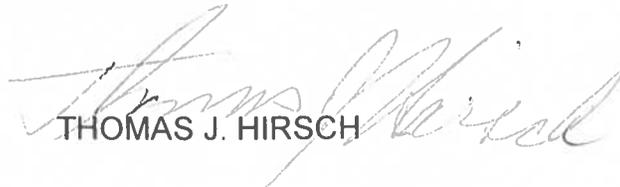
Mr. Cucchiaro's email to me of June 28, 2024 simply acknowledged my email and indicated he would discuss this with the governing body as I note my client was led to believe that this was, in fact, submitted to the governing body, and we're now waiting for a response.

Therefore, while we are certainly hopeful this matter will at long last be resolved, in the event it is not, my client has maintained certain legal positions that he should be entitled to proceed with the development as it was approved without inclusionary Affordable Housing although he has also previously offered to make a payment in lieu thereof. Therefore, my client wants to ensure that he is not prejudiced while he is negotiating in good-faith and, hence, is seeking the third and last one-year extension that is permitted under N.J.S.A. 40:55D-52.

I am enclosing my client's check for the application fee of \$200 and the escrow of \$700. The foregoing was the fee and escrow which was previously requested for our prior application although perhaps the amount of time needed to review this will be somewhat streamlined because of the history of the matter. In any event, I appreciate your presentation of this to the Board and advising if you need any additional information, and if not, provide a proposed date that we can appear in front of the Board which does not require any notice to the public.

As always, your help and cooperation are greatly appreciated.

Very truly yours,


THOMAS J. HIRSCH

TJH:bm
Enclosures

**BRADLEY BEACH LAND USE BOARD
RESOLUTION NO. 2022-15**

**RESOLUTION OF THE BRADLEY BEACH LAND USE BOARD,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY
GRANTING A ONE YEAR EXTENSION OF PRELIMINARY AND
FINAL SITE PLAN APPROVAL FOR COASTAL CUSTOM
BUILDERS AT THE PROPERTY LOCATED AT 803 & 811 MAIN
STREET, ALSO KNOWN AND DESIGNATED AS BLOCK 32 LOTS
17 & 18 ON THE MUNICIPAL TAX MAP FOR THE BOROUGH OF
BRADLEY BEACH.**

WHEREAS, Coastal Custom Builders (“Applicant”) received Board Approval on September 23, 2022 for a preliminary and final site plan approval for premises known as Block 32 Lots 17 & 18 as illustrated on the tax map of the Borough of Bradley Beach; and

WHEREAS, the Applicant has requested a one (1) year extension of the preliminary and final site plan approval granted on September 23, 2020; and

WHEREAS, hearings were held concerning the one (1) year extension on July 28, 2022 by the Bradley Beach Land Use Board in the Municipal Building and testimony and exhibits were presented on behalf of the applicant and all parties were afforded an opportunity to be heard; and

WHEREAS, the applicant was represented by Thomas Hirsch, Esquire; and

WHEREAS, the documents submitted by the Applicant adequately explains and reflects the reason for the requested one (1) year extension; and

WHEREAS, the Borough of Bradley Beach Land Use Board after hearing testimony does hereby grant approval for a one (1) year extension of a preliminary and final site plan approval to September 23, 2023; and

NOW, THEREFORE BE IT RESOLVED, by Land Use Board of the Borough of Bradley Beach, on the 18th day of August 2022 that the applicant's request for a one (1) year extension preliminary and final site plan approval to September 23, 2023 is hereby approved.

MOTION TO ADOPT & MEMORIALIZE:

Offered By: Dennis Mayer Seconded By: Robert Mehnert
Mayor Larry Fox YES Paul Murphy N/A
Councilman Timothy Sexsmith YES Meredith DeMarco YES
Kelly Reilly-Ierardi N/A Robert Mehnert YES Lauren Saracene N/A
Harvey Rosenberg YES Dennis Mayer YES
Alternates: William Psiuk (Alt. 1) YES Deborah Bruynell (Alt. 2) Absent
Arianna Bocco (Alt. 3) N/A JohnEric Advento (Alt. 4) N/A

CERTIFICATION

I hereby certify that this is a true copy of a resolution of the Bradley Beach Land Use Board adopted on August 18, 2022.



**Kristie Dickert, Secretary
Borough of Bradley Beach Land Use Board**

**BRADLEY BEACH LAND USE BOARD
RESOLUTION NO. 2023-22**

**RESOLUTION OF THE BRADLEY BEACH LAND USE BOARD,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY
GRANTING A ONE YEAR EXTENSION OF PRELIMINARY AND
FINAL SITE PLAN APPROVAL FOR COASTAL CUSTOM
BUILDERS AT THE PROPERTY LOCATED AT 803 & 811 MAIN
STREET, ALSO KNOWN AND DESIGNATED AS BLOCK 32 LOTS
17 & 18 ON THE MUNICIPAL TAX MAP FOR THE BOROUGH OF
BRADLEY BEACH.**

WHEREAS, Coastal Custom Builders (“Applicant”) received Board Approval on September 23, 2022 for a preliminary and final site plan approval for premises known as Block 32 Lots 17 & 18 as illustrated on the tax map of the Borough of Bradley Beach; and

WHEREAS, the Applicant received a one (1) year extension of the preliminary and final site plan approval which will expire on September 23, 2023; and

WHEREAS, hearings were held concerning the request for a second one (1) year extension on August 17, 2023 by the Bradley Beach Land Use Board in the Municipal Building and testimony and exhibits were presented on behalf of the applicant and all parties were afforded an opportunity to be heard; and

WHEREAS, the applicant was represented by Thomas Hirsch, Esquire; and

WHEREAS, the documents submitted by the Applicant adequately explains and reflects the reason for the requested one (1) year extension; and

WHEREAS, the Borough of Bradley Beach Land Use Board after hearing testimony does hereby grant approval for another one (1) year extension of a preliminary and final site plan approval to September 23, 2024; and

NOW, THEREFORE BE IT RESOLVED, by Land Use Board of the Borough of Bradley Beach, on the 21st day of September 2023 that the applicant's request for a second one (1) year extension preliminary and final site plan approval to September 23, 2024, is hereby approved.

MOTION TO ADOPT & MEMORALIZE:

Offered By: Harvey Rosenberg Seconded By: Deborah Bruynell
Robert Mehnert YES Paul Murphy Absent Lauren Saracene N/A
Liz Hernandez N/A Kelly Reilly-Ierardi N/A
Councilwoman Meredith DeMarco N/A Mayor Larry Fox N/A
Harvey Rosenberg YES Dennis Mayer N/A
Alternates: William Psiuk (Alt. 1) Recused Deborah Bruynell (Alt. 2) YES
Arianna Bocco (Alt. 3) N/A JohnEric Advento (Alt. 4) N/A

CERTIFICATION

I hereby certify that this is a true copy of a resolution of the Bradley Beach Land Use Board adopted on September 21, 2023.



Kristie Dickert, Board Secretary
Borough of Bradley Beach Land Use Board

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July 21, 2023

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701 Main Street
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Dear Ms. Dickert:

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However, I filed on behalf of my client a request for a one-year extension pursuant to N.J.S.A. 40:55D-52. That statute provides that the Board granting the approval of the site plan may grant up to three one-year extensions protecting the site plan from any changes in the development regulations. The Board placed the matter on their agenda, and we appeared before the Board, and as a result of that hearing, the Board voted to approve a one-year extension. I attach a copy of the Board's resolution approving the one-year extension. Therefore, that extension extended the final site plan protections afforded to the final site plan approval to September 23, 2023.

My client has been prepared to move forward with the development; however, we have an issue standing in the way of resolution compliance which is the question of my client's development providing some Affordable Housing units as part of the

development. When the application was presented back in 2020, there was no mention made of Affordable Housing being required during the course of the hearing nor was any such housing proposed in the development as all the units were presented as market rate units.

However, as my client was moving forward to obtain all the information for resolution compliance, the Board engineer noted in resolution compliance letter that my client was required to pay Development Fees for Affordable Housing. Therefore, I undertook to determine what the basis of that requirement was. Originally, I reached out for the Borough planner, Jennifer Beahm, asking what the Borough's position was on the Affordable Housing and the basis for any such position. I sent my email on March 7, 2022. However, she then referred me to Ron Cucchiaro, Esq. as the attorney who was handling Affordable Housing for the Borough. I then wrote a detailed letter outlining our position on Affordable Housing and asking for him to provide me the information as to the Borough's position on Affordable Housing related to the 2020 project on April 6, 2022. I did not receive a response and therefore then sent a follow-up email on April 8, 2022. Thereafter, I once again sent another email trying to get a response as to the Borough's position on May 6, 2022. My email of March 1, 2023 to Mr. Cucchiaro set forth our position on the COAH regulations and statutes that would be applicable to the question of Affordable Housing and asked for his position on same.

I eventually had a conversation with Mr. Cucchiaro. He indicated he was working on a response and that the Borough had been in court on a declaratory judgment action related to the Affordable Housing issue. I then ultimately received a letter from Mr. Cucchiaro dated May 25, 2023 outlining the Borough's position and citing to three ordinances which are essentially organized seemingly as a single ordinance adopted in 2017.

I provided this information to our Affordable Housing consultant in order to respond to the legal issues raised. Therefore, my client has held up filing any construction permits until the issue is fully resolved as the determination as to what, if any, Affordable Housing he has to provide or any contribution he would have to make is decided as it could affect the viability of the project.

I will in the very near future be providing a response on behalf of my client with input from our consultant, and we look forward to amicably resolving the issue. However, at this point after the very lengthy delays that we've had on this issue as outlined herein, we are not certain that we will be able to obtain a resolution prior to the current one-year extension expiring. Therefore, to avoid any subsequent issues related to the development, my client is seeking an additional one-year extension. In other words, this would be the second one-year extension out of the three permitted by statute. The extension itself would not in any way affect the Affordable Housing issue but simply give us time to make sure it's resolved so the project is finalized. The project itself is an excellent project that the Board was very supportive of and believed it was an excellent development for the site in question when approved.

I am enclosing my client's checks for the application fee of \$200 and the escrow of \$700. I've also attached the original resolution approving the project for the Board's easy reference. If you or the Board have any questions or need any additional information, please do not hesitate to contact me. As always, your help and cooperation are greatly appreciated.

Very truly yours,



THOMAS J. HIRSCH

TJH:bm

cc: Coastal Custom Builders

