

AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, HELD ON MAY 4, 2023 THE FOLLOWING RESOLUTION WAS ADOPTED:

APPLICATION NO. 02-SP-23

Name: Rosa Cucina Italiana Corp. by Angelo Merenda, President ("Applicant")
Premises: 406-410 West Boston Post Road
District: C-1
Tax I.D.: Section 9, Block 53, Lot 11

WHEREAS, The Applicant has applied to the Zoning Board of Appeals ("Board") for a Special Permit to operate a new food establishment (the "Application") in an existing building formerly used for the same business type on property located at 406-410 West Boston Post Road (the "Premises"); and

WHEREAS, as set forth in the Building Determination letter dated February 27, 2023, a special permit is required to operate a food establishment ("Food Establishment") in the C-1 District subject to the approval procedure set forth in Article X of the Village of Mamaroneck Zoning Code ("Zoning Code"); and

WHEREAS, Section 342-3(B) of the Zoning Code defines "Food Service Establishment":

Any use which includes the serving of food and/or beverages that requires an eating place permit, or is otherwise required by either county or state law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens and fast-food restaurants. No drive-up or car service shall be permitted; and

WHEREAS, the Applicant proposes no exterior construction but will repaint the interior and exterior of the existing building and refinish the interior floors and existing bar at the Premises; and

WHEREAS, the Applicant has submitted an interior renovation and occupancy plan, prepared by Enviroospace Architecture, last revised March 2, 2023, providing details of the proposed interior layout of the new restaurant; and

WHEREAS, after due notice, the Board conducted a Public Hearing on the Application on April 13, 2023, at which the Board heard all parties, reviewed and considered the materials related to the Application and received no comments from the public; and

WHEREAS, the proposed action is classified as Type II pursuant to the New York State Environmental Quality Review Act (SEQRA) regulations, 6 NYCRR §617.5(c)(18).

WHEREAS, the Board deliberated on the application at its May 4, 2023 public meeting and determined it was prepared to vote on the Application.

NOW, THEREFORE BE IT RESOLVED, that, after duly reviewing the Application and related materials and information provided during the public hearing process, the Board hereby grants a Special Permit to operate a Food Service Establishment on the Premises. In making this determination, the Board makes the following findings:

- 1) The Premises is currently improved with an existing building that was occupied by a similar use in the past and located in a commercially zoned area of the Village along with other nearby Food Service Establishments. As such, the proposed use is consistent with the neighborhood.
- 2) The Premises is located on Boston Post Road along with a variety of other uses and as such any noise including amplified or live music must be mitigated to reduce any impacts on residents and achieve compliance with the Village's special use permit standards. With noise mitigation noted below (hours of operation), the use will not adversely affect the public health, safety and welfare, and the comfort and convenience of the public in general, and any residents of the neighborhood.
- 3) The Application is in compliance with Special Permit standards and requirements as set forth in Zoning Code Sections 342-45 and 342-71 subject to the conditions set forth herein.

AND BE IT FURTHER RESOLVED, that, the Special Permit granted herein is subject to the following conditions:

- A. That the Special Permit granted herein is conclusively limited to the specific use as proposed in the Application and shall be valid for an initial period of one (1) year during which the Applicant must apply for and obtain a building permit (Zoning Code Section 342-73). If the Applicant acquires the building permit as required by the Zoning Code, then the Special Permit shall be deemed valid for a period of three (3) years, commencing on the date of this Resolution, with the Applicant obligated to submit a renewal application no less than four (4) months prior to the expiration date; and, upon the Applicant's failure to make said renewal application, the Special Permit granted herein shall expire without further notice to the Applicant.
- B. That the Special Permit granted herein shall terminate upon any change in the use, a cessation of use for more than twelve (12) months, a change in the intensity of the use, a change in services provided, a change in operations, and/or a change in the configuration of the Premises.

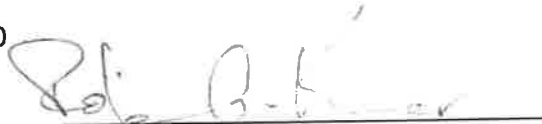
- C. That the granting of this Application shall not be deemed to relieve the Applicant of the need to obtain approval of any other board or agency or officer prescribed by law or ordinance with regard to the plans or construction or any other phase of the proposed project.
- D. The permitted hours of operation shall be as follows:
 - i. **Sunday-Thursdays:** 11:00am -11:00pm.
 - ii. **Friday-Saturday:** 11:00am -1:00am.
- E. To further mitigate any adverse impacts related to noise, the following conditions apply:
 - i. **Sunday-Thursdays:** Food service shall cease by 10:00pm, bar services shall cease at 10:30pm, and no patrons shall remain at the Premises after 11:00pm
 - ii. **Friday-Saturday:** Food service shall cease by 12:00am, bar services shall cease at 12:30am, and no patrons shall remain at the Premises after 1:00am.
 - iii. The playing of any music shall cease one (1) hour before the closure time set forth above.
 - iv. All doors and windows at the Premises shall be closed no later than 10:00pm on every day that music or any amplified sound is being played on the Premises.
- F. That any work done hereunder shall be in strict compliance with the plans as filed with this Application, except as expressly modified by the conditions herein or such non-material changes to such plans as may be approved by the Building Inspector.
- G. A copy of this Special Permit shall be onsite at all times, and available upon request.
- H. Any exterior lighting must be downward illuminating.
- I. All sound levels must comply with the requirements of the Village Code.
- J. The Applicant must comply with all applicable local, state, and federal laws and regulations.
- K. That the failure to observe and perform any of these conditions shall render this Special Permit invalid.

BE IT FURTHER RESOLVED, that, the Board directs that a complete copy of this resolution be filed with the Village Clerk in compliance with New York State Village Law.

On the motion of Board member Heaney, seconded by Board member Shingler, the foregoing Resolution was adopted with Board members voting as follows:

Robin Kramer, Chair	YES
Gretta Heaney	YES
Brian Glattstein	YES
David Neufeld	YES
Angelique Shingler	YES

The motion was carried on a vote of 5-0



Robin Kramer, Chair, Zoning Board of Appeals

Dated: 05-31, 2023

Mamaroneck, New York